

Lincoln as a Lawyer

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LAW PRACTICE

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Abraham Lincoln's Law Practice

Lincoln as a Lawyer

Excerpts from newspapers and other
sources

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LINCOLN'S LOYALTY

S. T. LOGAN & E. D. BAKER,

ATTORNEYS AND COUNSELLORS AT LAW.

WILL practice, in conjunction, in the Cir-
Cours of this Judicial District, and in the Circuit
Courts of the Counties of Pike, Schuyler and Peoria.
Springfield, march, 1867. 81-t

J. T. STUART AND A. LINCOLN.

ATTORNEYS and Counsellors at Law, will practice,
conjointly, in the Courts of this Judicial Circuit.—
Office No. 4 Hoffman's Row, up stairs.
Springfield, April 12, 1837. 4

THE partnership heretofore existing between the un-
dersigned, has been dissolved by mutual consent.—
The business will be found in the hands of John T. Stuart.

JOHN T. STUART,
April 12, 1837. 84 **HENRY E. DUMMER.**

STUART AND LINCOLN'S PROFESSIONAL CARD.

The professional card of Stuart and Lincoln shows that
the copartnership began April 12, 1837. The card ap-
peared in the next issue of the "Sangamo Journal," and
was continued until Lincoln became the partner of Judge
Logan, in 1841.

An Old Card of Lincoln's.

An employe of the senate was mov-
ing a box of books at the capitol that
had not been disturbed for many
years. A volume of Prescott's "His-
tory of Mexico" attracted his atten-
tion, and he took it up to glance
through it. As he opened it a card
caught his attention. On examina-
tion it proved to be a professional
card of Lincoln. The following was
inscribed upon it: "A Lincoln, At-
torney at Law, Springfield, Ill." On
one end of it was this sentence: "I
am still practicing my profession on
this side of the river, and shall be
ready at all times to crack a joke,
swap horses or split rails until the
4th of March." Was the card a bur-
lesque, or was it a genuine profes-
sional card? Those who saw it were
unable to determine. It had evidently
lain where it was found for more
than 20 years. If it were genuine, it
was probably published by Lincoln, as
a sort of joke, between the date of
his election and the date of his en-
trance into the White House. A well
known newspaper man was so well
satisfied with its genuineness that he
carried it away as a curiosity well
worth preserving.—New Orleans
Times-Democrat, May 19, 1883.

LINCOLN IN COURT.

After his only term in Congress expired in 1849, Lincoln returned to his home in Springfield a thoroughly disappointed man. He was not renominated for Congress, but nevertheless went into the Presidential campaign with all his energy and zeal. He espoused the cause of Taylor as against Cass, and after the election joined in glorifying over the former's triumph. He sought an appointment as Commissioner of the Land Office, but this was denied him and given to Justice Butterfield, an able lawyer of Chicago. The President, however, offered to appoint him Governor and afterwards Secretary of the Territory of Oregon, but to the surprise of his friends he declined both. He was disappointed and sore.

Grieving over his shabby treatment by the Administration he retired from public view. He turned his attention to the practice of law, and from this time on—although the Whig party was in power—Lincoln was as dead a man, politically speaking, as there then was in the whole State of Illinois. These few years he remained obscured from public notice, however, were the making of the man. As Congressman he had to deal with the vexations of party patronage in his district, thereby creating conditions that brought about his own political downfall. But now this was all over, and he was again in the shades of private life. He attended no ward meetings, no gatherings that pertained to local interests. He did not care who among his friends got this office or that—who was to be Mayor or Street Commissioner. He could see no principle of right or truth in any of these things.

The tall, bony, abstracted man who strode over the plank sidewalks of Springfield was undergoing a complete transformation—the great crucible in which his virtues and courage were to be tested was now being made. Mr. Herndon, his partner, says that Lincoln felt he was dead politically, and so he went most heartily to the law again. He took Euclid around with him on the circuit, and of nights and at odd times he would learn Euclid's problems. "Lincoln and I slept together," remarks Herndon, "in the same bed as we followed the Court around on the circuit. He would read by the light of a tallow candle while lying in bed.

The bedsteads in all cases were just right for me, but in some cases they were too short for him, and so his feet would hang over the foot-board. Lying thus with a volume in his hand, he would read till after midnight. "Contrary to the general belief, those best acquainted with Mr. Lincoln insist that he was what the legal fraternity would call a case lawyer—but a perfect one at that. He did not learn the law altogether from what he read in the elementary books, but he studied special cases thoroughly and became a good lawyer through that means.

By virtue of his good memory he applied his special reading to other cases, and so continued till he became one of the best Supreme Court lawyers in Illinois. He was not a good *nisi prius* lawyer. He hated forms, paid but little attention to the rules of pleading or practice, and always insisted that he "only went in for substance."

As to habits in the office, he was careless. He would pick up a book or newspaper, spread himself on the sofa and chairs, and read aloud. This annoyed his partner a good deal, and he frequently would quit the office because of this reading aloud. Herndon once asked him why he did so, and his reply was: "I catch the meaning by two senses; for when I read aloud I hear what is read, and also see it, and hence two senses get it, and I remember it better if I do not understand it better." At his home he had much the same habits, except when restrained by his wife. He would turn a chair upside down, using the inclined back for a head-rest, and lie on the floor, always reading aloud. He was in no sense a general reader, but read for a special object, and then applied it. He loved the practical, and regarded things useless unless they were practical. Hence he hated study, except for the practical, to be applied right away, as it were. If he read till he became tired, then he must tell a story or crack a joke to relieve the pressure following deep study. Although intellectually strong and long-headed, he was reflective rather than spontaneous.

It was about this time that he exhibited at times so much sadness and gloom as to induce the belief among his friends that he was still grieving over his political death. He gradually grew unsocial and abstracted. The latter condition was brought about by deep thought more than anything else, and it is not strange therefore that he should pass his intimate friends on the street without seeming to notice or know them. Sometimes this abstractedness would be the result of intense gloom or of deep thought on some important law or other question. Lincoln was not only thoughtful, but persistent, fearless, tireless in thinking. When he got after a fact, principle or a question he ran it down to the fibers of the tap root—dug it out and held it up before him for analysis, and when after this research he had formed an opinion no man could overthrow it. He was in this particular without an equal. In his law practice his feelings and sympathy led him to espouse the cause of the wronged one in every case.

Herndon says, in relating an incident that occurred during their partnership: "I once saw Lincoln look more than a man; he was inspired by the occasion. It was about 1849 and soon after Lincoln's return from Congress. A man living here in Springfield named Erastus Wright was engaged in obtaining pensions for the soldiers and the widows and heirs of soldiers who had served in the Revolution and the war of 1812. The widow of a Revolutionary soldier applied to Wright for her pension, which amounted to about \$400. The latter made out the necessary papers, secured the pension and charged her \$200—half of what the Government had allowed her. The poor old woman came into our office, quite blind, deaf and on crutches. She stated to Lincoln her case, who sympathized with her and promised to make Wright disgorge at least \$100. He went to see Wright in person, but he refused to refund anything. The old woman at once commenced suit, Lincoln going security for costs.

The case finally got before the jury with all the facts fully told. Lincoln then arose to begin his argument. He soon became warm, and then eloquent with his feelings. He seemed to have grown to be nine feet high. He blasted as with a thunderbolt the miscreant who had robbed the poor old woman. His body shook with feeling, his eyes flashed fire. The jury became indignant and would have mobbed Wright in a minute but for the restraint of the Court. No man ever had such control over the emotions of people as Lincoln then had over that jury and the spectators. They followed him along—they wept at one moment, and then were ready to burst with indignation at the next. The suit was a civil one—there being no law regulating the fees of attorneys in pension cases then—and the jury made Wright disgorge all but about fifty dollars. Lincoln had volunteered his services, charged the old woman nothing, and even paid her hotel bill and other expenses during the trial.

Lincoln still continued practicing law after his return from Congress in 1849, and so successfully divorced himself from politics and politicians that he was numbered among the political dead. His fame as a shrewd lawyer was spreading all over Illinois now, and the heretofore humble firm of Lincoln & Herndon began to push forward. Herndon, the younger of the two, prepared the papers, while Lincoln did the work in open Court. He told the stories and managed all the jury cases. In point of ingenuity he was unequaled, and his strategy was such as to make the other lawyers stand in dread of him. Never a term of Court adjourned that the jurymen and spectators did not go each to his prairie home with an indelible recollection of his strategy and a goodly stock of his yarns. Although unknown outside of his own State, he was fast tying himself on to the affections of the farmers of Illinois.

During the long winter evenings the loafers, in heavy boots, as they squirted tobacco juice over the stove in the country post-office, and the broad-shouldered men who met at log rollings and barn raisings, all took delight in listening to "one of Lincoln's stories." Douglas may have seemed their favorite leader, but Lincoln's wit and tact were fast making inroads on their affections. A great storm was brewing; old Zach Taylor, who had refused Lincoln the Land Office, had passed away. Douglas had brought the fire by the introduction of his Kansas-Nebraska bill, and the man who only yesterday sat on the court-house steps amusing a crowd with his bar-room stories, was about to be forced out into the Nation's gaze. He was to be the exponent of a great principle, and this was the beginning of a great epoch.

JESSE W. WEIK.

GREENCASTLE, IND., July 10, 1886.

W.E.

SKETCHES OF LINCOLN.

Settling Down to the Practice of Law.

EFFECT OF HIS POLITICAL DEFEAT.

His Talent as a Story Teller—How He Appeared in the Law Office—His Most Striking Characteristic—How the Fees Were Divided.

[From "The Life of Lincoln" by William H. Herndon and Jesse W. Weik. Copyright, 1888, by Jesse W. Weik. Copyright, 1892, by D. Appleton & Co.]

XVI.

While a member of congress and otherwise immersed in politics, Lincoln seemed to lose all interest in the law. Of course what practice he himself controlled passed into other hands. I retained all the business I could and worked steadily on until, when he returned, our practice was as extensive as that of any other firm at the bar. Lincoln realized that much of this was due to my efforts, and on his return he therefore suggested that he had no right to share in the business and profits which I had made. I responded that, as he had aided me and given me prominence when I was young and needed it, I could afford now to be grateful if not generous. I therefore recommended a continuation of the partnership, and we went on as before. I could notice a difference in Lincoln's movement as a lawyer from this time forward. He had begun to realize a certain lack of discipline—a want of mental training and method. Ten years had wrought some change in the law and more in the lawyers of Illinois. The conviction had settled in the minds of the people that the pyrotechnics of courtroom and stump oratory did not necessarily imply extensive or profound ability in the lawyer who resorted to them. The courts were becoming graver and more learned, and the lawyer was learning as a preliminary and indispensable condition to success that he must be a close reasoner, besides having at command a broad knowledge of the principles on which the statutory law is constructed. There was, of course, the same riding on circuit as before, but the courts had improved in tone and morals, and there was less laxity—at least it appeared so to Lincoln.

Political defeat had wrought a marked effect on him. It went below the skin and made a changed man of him. He was not soured at his seeming political decline, but still he determined to eschew politics from that time forward and devote himself entirely to the law. And now he began to make up for time lost in politics by studying the law in earnest. No man had greater power of application than he. Once fixing his mind on any subject, nothing could interfere with or disturb him. Frequently I would go out on the circuit with him. We usually at the little country inns occupied the same bed. In most cases the beds were too short for him, and his feet would hang over the footboard, thus exposing a limited expanse of shin bone. Placing a candle on a chair at the head of the bed, he would read and study for hours. I have known him to study in this position till 2 o'clock in the morning. Meanwhile I and others who chanced to occupy the same room would be safely and soundly asleep.

On the Circuit.

On the circuit in this way he studied Euclid until he could with ease demonstrate all the propositions in the six books. How he could maintain his mental equilibrium or concentrate his thoughts on an abstract mathematical proportion while Davis, Logan, Swett, Edwards and I so industriously and volubly filled the air with our interminable snoring was a problem none of us could ever solve. I was on the circuit with Lincoln probably one-fourth of the time. The remainder of my time was spent in Springfield looking after the business there, but I know that life on the circuit was a gay one. It was rich with incidents and afforded the nomadic lawyers ample relaxation from all the irksome toil that fell to their lot. Lincoln loved it. I suppose it would be a fair estimate to state that he spent over half the year following Judges Treat and Davis around on the circuit. On Saturdays the court and attorneys, if within a reasonable distance, would usually start for their homes. Some went for a fresh supply of clothing, but the greater number went simply to spend a day of rest with their families. The only exception was Lincoln, who usually spent his Sundays with the loungers at the country tavern and only went home at the end of the circuit or term of court.

"At first," relates one of his colleagues on the circuit, "we wondered at it, but soon learned to account for his strange disinclination to go home. Lincoln himself never had much to say about home, and we never felt free to comment on it. Most of us had pleasant, inviting homes, and as we struck out for them I'm sure each one of us down in our hearts had a mingled feeling of pity and sympathy for him." If the day was long and he was oppressed, the feeling was soon relieved by the narration of a story. The tavern loungers enjoyed it, and his melancholy, taking to itself wings, seemed to fly away.

As a Story Teller.

In the role of a story teller I am prone to regard Mr. Lincoln as without an equal. I have seen him surrounded by a crowd numbering as many as 200 and in some cases 300 persons, all deeply interested in the outcome of a story which, when he had finished it, speedily found repetition in every grocery and lounging place within reach. His power of mimicry, as I have before noted, and his manner of recital were in many respects unique if not remarkable. His countenance and all his features seemed to take part in the performance. As he neared the pith or point of the joke or story every vestige of seriousness disappeared from his face. His little gray eyes sparkled, a smile seemed to gather up, curtainlike, the corners of his mouth, his frame quivered with suppressed excitement, and when the point, or "nub," of the story, as he called it, came no one's laugh was heartier than his. These backwoods allegories are out of date now, and any lawyer ambitious to gain prominence would hardly dare thus to entertain a crowd, except at the risk of his reputation, but with Lincoln it gave him in some mysterious way a singularly firm hold on the people.

How Lincoln appeared and acted in the law office has been graphically and, I must confess, truthfully told by a gentleman, now in New York, who was for several years a student in our office. I beg to quote a few lines from him: "My brother met Mr. Lincoln in Ottawa, Ills., one day and said to him, 'I have a brother whom I would very much like to have enter your office as a student.' 'All right!' was the reply. 'Send him down, and we will take a look at him.' I was then

studying law at Grand Rapids, Mich., and on hearing from my brother I immediately packed up and started for Springfield. I arrived there on Saturday night. On Sunday Mr. Lincoln was pointed out to me. I well remember this first sight of him. He was striding along, holding little Tad, then about 6 years old, by the hand, who could with the greatest difficulty keep up with his father. In the morning I applied at the office of Lincoln & Herndon for admission as a student.

A Modest Office.

"The office was on the second floor of a brick building on the public square, opposite the courthouse. You went up one flight of stairs and then passed along a hallway to the rear office, which was a medium sized room. There was one long table in the center of the room and a shorter one running in the opposite direction, forming a T, and both were covered with green baize. There were two windows which looked into the back yard. In one corner was an old fashioned secretary with pigeonholes and a drawer, and here Mr. Lincoln and his partner kept their law papers. There was also a bookcase containing about 200 volumes of law as well as miscellaneous books. The morning I entered the office Mr. Lincoln and his partner, Mr. Herndon, were both present. Mr. Lincoln addressed his partner thus: 'Billy, this is the young man of whom I spoke to you. Whatever arrangement you make with him will be satisfactory to me.' Then, turning to me, he said: 'I hope you will not become so enthusiastic in your studies of Blackstone and Kent as did two young men whom we had here. Do you see that spot over there?' pointing to a large ink stain on the wall. 'Well, one of these young men got so enthusiastic in his pursuit of legal lore that he fired an inkstand at the other one's head, and that is the mark he made.' I immediately began to clean up about the office a little. Mr. Lincoln had been in congress and had the usual amount of seeds to distribute to the farmers. These were sent out with Free Soil and Republican documents. In my efforts to clean up I found that some of the seeds had sprouted in the dirt that had collected in the office. Judge Logan and Milton Hay occupied the front offices on the same floor with Lincoln and Herndon, and one day Mr. Hay came in and said, with apparent astonishment, 'What's happened here?' 'Oh, nothing,' replied Lincoln, pointing to me, 'only this young man has been cleaning up a little.' One of Lincoln's striking characteristics was his simplicity, and nowhere was this trait more strikingly exhibited than in his willingness to receive instruction from anybody and everybody. One day he came into the office, and addressing his partner said, 'Billy, what's the meaning of antithesis?' Mr. Herndon gave him the definition of the word, and I said, 'Mr. Lincoln, if you will allow me, I will give you an example.' 'All right, John, go ahead,' said Mr. Lincoln in his hearty manner. 'Phillips says in his essay on Napoleon, "A pretended patriot, he impoverished the country; a professed Catholic, he imprisoned the pope," etc.' Mr. Lincoln thanked me and seemed very much pleased. Returning from off the circuit once, he said to Mr. Herndon: 'Billy, I heard a good story while I was up in the country. Judge D. was complimenting the landlord on the excellence of his beef. "I am surprised," he said, "that you have such good beef. You must have to kill a whole critter when you want any." "Yes," said the landlord, "we never kill less than a whole critter."'

"Lincoln's favorite position when unraveling some knotty law point was to stretch both of his legs at full length upon a chair in front of him. In this position, with books on the table near by and in his lap, he worked up his case. No matter how deeply interested in his work, if any one came in he had something humorous and pleasant to say, and usually wound up by telling a joke or an anecdote. I have heard him relate the same story three times within as many hours to persons who came in at different periods, and every time he laughed as heartily and enjoyed it as if it were a new story. His humor was infectious. I had to laugh because I thought it funny that Mr. Lincoln enjoyed a story so repeatedly told.

Dividing the Fees.

"There was no order in the office at all. The firm of Lincoln & Herndon kept no books. They divided their fees without taking any receipts or making any entries on books. One day Mr. Lincoln received \$5,000 as a fee in a railroad case. He came in and said, 'Well, Billy,' addressing his partner, Mr. Herndon, 'here is our fee. Sit down and let me divide.' He counted out \$2,500 to his partner and gave it to him with as much nonchalance as he would have given a few cents for a paper. Cupidity had no abiding place in his nature.

"I took a good deal of pains in getting up a speech which I wanted to deliver during a political campaign. I told Mr. Lincoln that I would like to read it to him. He sat down in one chair, put his feet into another one and said: 'John, you can fire away with that speech. I guess I can stand it.' I unrolled the manuscript and proceeded with some trepidation. 'That's a good point, John,' he would say at certain places, and at others, 'That's good—very good indeed,' until I felt very much elated over my effort. I delivered the speech over 50 times during the campaign. Elmer E. Ellsworth, after colonel of the famous zouaves, who was killed in Alexandria early in the war, was nominally a student in Lincoln's office. His head was so full of military matters, however, that he thought little of law. Of Ellsworth, Lincoln said, 'That young man has a real genius for war!'"

A STORY ABOUT LINCOLN.

He Illustrates the Weakness of a Glib-Tongued Lawyer by an Anecdote.

1854
Once during the argument in a lawsuit, in which Lincoln represented one party, the lawyer on the other side was a good deal of a glib talker, but not reckoned as deeply profound or much of a thinker. He would say anything to a jury which happened to enter his head. Lincoln, in his address to the jury, referring to this, said:

"My friend on the other side is all right, or would be all right, were it not for the peculiarity I am about to chronicle. His habit, of which you have witnessed a very painful specimen in his argument to you in this case—of reckless assertions and statements without grounds, need not be imputed to him as a moral fault or as telling of a moral blemish. He can't help it. For reasons which, gentlemen of the jury, you and I have not the time to study, as deplorable as they are surprising, the oratory of the gentleman completely suspends all actions of his mind. The moment he begins to talk his mental operations cease. I never knew of but one thing which compared with my friend in this particular. That was a small steamboat. Back in the days when I performed my part as a keel boatman, I made the acquaintance of a trifling little steamboat which used to bustle and puff and wheeze about the Sangamon river. It had a five-foot boiler and a seven-foot whistle, and every time it whistled it stopped."

A Story of Lincoln's Wonderful Mental and Physical Ability.

Professor Stevens was once working up a mining case for the government in a western state where Mr. Lincoln was practicing law. Mr. Lincoln at the time was comparatively unknown in law and politics. When the professor engaged his room in the crowded country hotel, he found that a Mr. Lincoln was to occupy one bed in the room, as there was no other place where he could be accommodated. After arranging his books the professor settled down in an easy chair to prepare his brief. 1500

Mr. Lincoln soon came in and made himself known. He said he also had to spend the evening making up an argument upon a mining case, and he knew less about mines than about anything else. In an hour the professor finished his work and retired, but before he did so he granted his roommate the privilege of using all his books, maps and papers upon mines and mining. Then he went to sleep, and when he awoke at 7 the next morning he found Mr. Lincoln just where he had left him poring over his books and papers. The lamp was still burning, although it was daylight.

As Professor Stevens' case did not come up the next day he attended the court to hear Mr. Lincoln present his arguments. He reached the scene in time for the opening speech by his roommate, and he staid all through the session.

Although Mr. Lincoln spoke for over an hour on the technicalities of mines and mining, he did not make a single mistake. He cross examined some half dozen surveyors and engineers and in every case puzzled and embarrassed them with his knowledge of the subject. Of course he won the case. But Professor Stevens said that everybody in the court believed he had been graduated in mining engineering and had devoted years to the study of the science.—Saturday Evening Post.

LEADER IN ILLINOIS BAR.

Chicago Tribune 2/12/1900

Element of Fairness to the Other Mr. Lincoln's Marked Characteristic—Jurors Believed in Him.

By E. B. McCagg.

I recall with interest the first time I ever saw Mr. Lincoln. A convention was held in Chicago early in July, 1847, to urge upon Congress the necessity of improving the waterways of the West. There was some conflict of opinion among the delegates. David Dudley Field, an eminent New York lawyer, claiming to be in favor, in principle, of appropriations to improve rivers and harbors, argued that they should be confined to harbors on the seacoast, and such rivers as ran between several States. This did not meet the views of his audience, largely composed of citizens of Chicago, and somebody called out: "What do you say to the Illinois River?" It is easy to see that it was a most pertinent question and cut up by the rents and left to wither Mr. Field's notion, for the Illinois, from source to mouth, is within this State, yet it is part of a waterway connecting the lakes with the Gulf of Mexico, national in character. Mr. Field, not quite familiar with the geography of the West, said: "Let us see; the Illinois River flows between States," and a loud, prolonged shout of derision followed with an evident purpose on the part of the crowd no longer to listen to him. This being the situation, a delegate sitting on the platform, rising, advanced to the front, and in a few well chosen words, to the effect that full and free discussion had been invited and must be favorable to the cause they had at heart, ended the disturbance, and Mr. Field was permitted to proceed. Much struck by his appearance and what he said, I turned to a bystander and asked who it was, and the reply was: "Mr. Lincoln, a Springfield lawyer."

The element of fairness is amusingly shown in an anecdote for which Mr. Swett, who was his intimate friend, is my authority. They (Mr. Lincoln and Mr. Swett) were associated in defending a criminal on trial before Judge Davis, then Judge of one of the Illinois Circuit Courts, afterward, by the appointment of Mr. Lincoln, a Justice of the Supreme Court of the United States. The case evidently in its various phases much interested the Judge. As the trial neared its end Judge Davis from the bench called Mr. Swett to his side and said: "Swett, who is to argue this cause to the jury?"

Mr. Swett replied: "I suppose, of course, Mr. Lincoln; he is senior counsel."

"Don't let him do it! Don't let him do it!" said the Judge. "He is too fair."

I must deny any possible deduction from this incident that Mr. Lincoln was not fully alive to his duty to his client and to every inference that might be drawn in his favor, but he would not press such inference unless it was legitimately to be gained from the evidence and had forceful and sure value. There was an element of strength in this; he drove home with more power and less disturbance his stronger points, and jurors had faith in him.

Looking back to those days with his finished career before us, he then showed all the traits of character which so illustrated his life in later years. He felt the pulse of court and jury as he afterwards did that of his people. He was as much on his guard and as circumspect in the management of his case as when he had States and governments to deal with. He was as subtle (and I use this word in the sense of acuteness and discernment, and not of craft, deceit, or artfulness as a trial lawyer) as later in his debates with Douglas or in his movements over the vast field of operations which, while he was President, taxed his ability. The qualities were there, and they were not latent; the field was narrower, but they, within the limits which called for their exercise, were, every one of them, alive and active forces.

Remembrances of Mr. Lincoln When Attending the Federal Courts in Chicago—His Siestas on a Coal Box.

By M. R. M. Wallace.

During the years from 1855 to 1858 the United States District Court, in which the late Judge Thomas Drummond presided, was held here in what was then called "the Saloon Building" at the southeast corner of Clark and Lake streets. At that time the title to the land in a certain locality in the western part of this community, called "the military tract," was in litigation, and the cases were being tried before Judge Drummond. These were some of the legal lights of those days who were taking part in the proceedings: Abraham Lincoln, Stuart, and Judge Steven T. Logan of Springfield; Archibald Williams and Browning of Quincy; Judge Purple and the Mannings of Peoria, Judge Samuel Fuller and Hoynes of Chicago, and Dickey and Cook of Ottawa.

T. Lyle Dickey, Major Whitney, and myself had an office in the old Metropolitan Hotel Building at the corner of La Salle and Randolph streets. As a convenient receptacle for fuel we had a coal box six feet long, two feet deep, and two and one-half feet wide, and the box was upholstered on the outside with carpet. On it was a cotton pillow, and the whole afforded a comfortable lounging place for a tired man. Mr. Lincoln frequently came over from court, and took a "snooze" on it.

One day during this time Lincoln, Dickey, and I were walking abreast on the street when in some way the question of the relative height of Lincoln and myself came up. Mr. Lincoln offered then and there to bet a quarter that he was the taller of the two. I took the bet, and the stakes were deposited in Dickey's hands. Now, the wily Lincoln stooped from the lower spine, and when the test came he straightened up, and I found that I was left. He was taller by an inch or two. My quarter jingled in his pocket with his own—and he did not offer to treat, either.

During the year 1858 Lincoln and my partner, Dickey, tried a patent right case, in which a large amount was involved, before Judge Drummond. The trial of the case was as entertaining and instructive as a law school and a theater combined. Lincoln would say: "Now, Dickey, you know yourself that ain't right." There appeared in his utter indifference as to what the court would decide. The case was appealed to the Supreme Court at Washington, and in November Dickey directed me to telegraph Lincoln and ask him if he was going to Washington City that winter. He answered by letter as follows:

"M. R. M. Wallace—Dear Sir: Your 'flash' received. As to going this winter, if the court understands herself, and I think she do, I won't go at all. A. Lincoln."

HONORED BY THE WORLD.

The late Dr. Charles V. Dyer related to me an incident showing that not only America but the world was profoundly moved by the assassination of Mr. Lincoln. The 600th anniversary of Dante's birthday was celebrated in Florence Italy, on the 14th day of May, 1865. Dr. Dyer, who had been sent abroad by the friendship of Mr. Lincoln, was invited to respond for America, and in doing so he paid a touching tribute of affection and respect to the memory of the apostle and martyr of liberty.

When he pronounced the name of Abraham Lincoln every one in that vast assembly of distinguished men rose reverently to his feet and stood in profound silence. Every heart seemed thrilled with a pang of sorrow, and each countenance betrayed intense emotion. It was a scene never to be forgotten.

E. B. SHERMAN,
United States Circuit Court Commissioner, Chicago.

LOVED BY THE PEOPLE.

Abraham Lincoln for years gave no sign of gaining an enduring fame. His hour had not struck. He became one of the leading lawyers of the State. He was noted for his great skill in the conduct of a trial, and for his eloquence and power as an advocate. It was a notable event to be present at the trial of a great case with Lincoln on one side and Judge Logan or some other great lawyer on the other. But Abraham Lincoln, while making the law his life business, was a born politician; he possessed a natural bent for the study and discussion of the great political questions arising under our government.

His patriotic devotion to his country, his comprehensive wisdom, his high sense of justice, the absolute sincerity of his nature, the deep sympathy and unfailing kindness of his heart, all influencing and controlling him in the conduct of the most momentous struggle in which the human race ever engaged, have secured for Abraham Lincoln the love and admiration of the whole American people.

CAROL E. HAYES.

LAWYER LINCOLN TOLD OF

Capt. T. W. S. Kidd Interests the
Sangamon County Bar.

Recites Anecdotes in the Life of
His Townsman.

Tells of Riding the Circuit and the
Experiences Incident to Law
Practice of the Day.

Before the members of the Sangamon County Bar association last night, Capt. T. W. S. Kidd made an address on "Lawyer Lincoln, by the Crier of the Court." The speaker was well received and his address proved very interesting.

Captain Kidd spoke of occurrences in Lincoln's life as he observed them in secret of Lincoln's great success lay which Lincoln practiced. He said that while the most brilliant statemen have been taken from the legal profession, Lincoln was not generally classed first in all branches of that science, but possessed a good general knowledge of the law and was, in a word, a good lawyer.

Never Took the Wrong Side.

The speaker told of Lincoln's honesty and of his seldom allowing himself to be on the wrong side of a case. In the estimation of Captain Kidd, gained from his observations of Lincoln, the secret of Lincoln's great success lay in the fact that Lincoln had the moral courage to do right regardless of consequences. He said that Lincoln's arguments to courts and juries were couched in plain and simple language and that the earnestness and sincerity with which he pleaded his cause was one of his characteristics.

The speaker related an anecdote regarding Lincoln's riding the circuit and his being in great demand as a trial lawyer. He told of Lincoln's riding a mule which tried to throw him off. When asked what he was trying to do Lincoln replied that he was trying to convince his half and half of ears that he (Lincoln) was on for keeps.

Tells of Riding the Circuit.

Captain Kidd repeated the story that Lincoln told of judges and lawyers riding the circuit in early days. When they came to a stream which appeared to be treacherous and the water deep they disrobed and swam across. Lincoln afterward remarked that he did not believe a bridge across that stream would materially interfere with navigation. He recalled the incident in a trial when Lincoln accused Judge Logan of having his shirt on front side before, also of a justice in Macoupin county asking Lincoln for advice as to whether a justice of the peace could lawfully issue a marriage license.

The justice had an argument that he could perform the ceremony and made a wager to that effect. Lincoln was chosen to decide and he told the 'squire he was wrong. The justice said he knew better for he had been doing it the last three years.

Captain Kidd closed with an eloquent tribute to Lincoln as a man, lawyer, politician and statesman.

How Lincoln Won His Case.

D. J. Brewer in the November Atlantic: The lawyer whose honesty is proved has the confidence of the judge and jury. A story of Abraham Lincoln is an illustration: He was appointed to defend one charged with murder. The crime was a brutal one; the evidence entirely circumstantial, the accused a stranger. Feeling was high and against the friendless defendant. On the trial Lincoln drew from the witness full statements of what they saw and knew. There was no effort to confuse, no attempt to place before the jury the facts other than they were. In the argument, after calling attention to the fact that there was no direct testimony, Lincoln reviewed the circumstances, and after conceding that this and that seemed to point to defendant's guilt, closed by saying that he had reflected much on the case and while it seemed probable that defendant was guilty, he was not sure and looking the jury straight in the face said: "Are you?" The defendant was acquitted, and afterward the real criminal was detected and punished. How different would have been the conduct of many lawyers! Some would have striven to lead the judge into technical errors with a view to an appeal to a higher court. Others would have become hoarse in denunciation of witnesses, decrying the lack of positive testimony and the marvelous virtue of a reasonable doubt. The simple, straightforward way of Lincoln, backed by the confidence of the jury, won.

LINCOLN, THE LAWYER

By REV. JOHN T. FARIS.

Almost every American is familiar with those incidents of Abraham Lincoln's early life which prompted his acquaintances to give him the title of "Honest Abe." The stories of the three days' work at 25 cents a day to pay for an injury to a borrowed book, of the long walk taken to restore to a customer in Offutt's store a small overcharge for which he as clerk was responsible, of the similar trip to another customer to carry a small quantity of tea when by accident the package already delivered had been under weight—these have all been told and told again.

But we are not so familiar with other similar incidents of the career of the great American of whom some one has said: "Lincoln is not a type. He stands alone—no ancestors, no fellows, no successors."

A recent volume by Frederick Trevor Hill, "Lincoln the lawyer," devoted to a period of his life to which scant attention has been paid by biographers of the martyred President, presents some twice-told tales, as well as some which are new to many readers. After careful investigation by the author a number of popularly accepted incidents were discarded, and only well authenticated anecdotes were included in the volume, which has for its purpose to show the development of the man and the manner of his preparation for the great work of his life.

His choice of a profession did not commend itself to all his friends. Some of them thought him too honest a man for the law; perhaps they feared that he would yield to the temptations of the new life, which, even in Illinois in those early days, was popularly considered one of trickery, if not of rascality.

But Lincoln had other notions. He knew there was a place for an honest man in the law, as in every other station in life. Mr. Hills statement in the book already mentioned would have met with his hearty approval: "There is probably no profession in the world which makes greater demands on the integrity, or presents nicer questions of honor, or offers wider opportunities for fairness, than the profession of the law. The

fact that many distinguished practitioners have not maintained the highest standards of the calling, that most of them have compromised for monetary or momentary success, that a few have actually abused their great opportunities, does not impeach the proposition that extraordinary integrity, honor, and fairness are the essential qualities of a great lawyer."

We have in Lincoln's own words the statements of his high conception of the calling of the lawyer. In writing of the popular belief that there is no such thing as an honest lawyer he said: "Let no man choosing the law for a calling yield to that popular belief. If in your judgment you cannot be an honest lawyer, resolve to be honest without being a lawyer. Choose some other occupation rather than one in choosing of which you do in advance consent to be a knave."

This high conception of the lawyer's calling was not mere fine-spun theory. From beginning to end his legal career showed his determination to live in strict accordance with his professions.

It was while he was completing his studies in preparation for the examination for admission to the bar that he formed the disastrous partnership with a merchant of New Salem which led to failure. His partner died, and the firm's creditors pounced on the young lawyer. Public opinion would have been with him, had he repudiated the debts. His legal training would have enabled him to evade their payment. But he would neither take advantage of public opinion, nor prostitute his knowledge of the law for his own pecuniary benefit. "To Lincoln a promise was a promise," the author writes. "Little by little he reduced the claims, and fourteen years afterward he devoted part of his salary of Congressman to this purpose, and finally extinguished what he jestingly termed his 'national debt.'"

Then Mr. Hill adds, "In these days when lawyers of high standing lend themselves to the thousand and one trickeries by which bankruptcy has become a new way to pay old debts, when influential firms accept retainers from insolvent clients, who retain their membership in fashionable clubs, and man-

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ing clerks are encouraged to make affidavits of merit on behalf of such gen-
 eral, it is refreshing to think of the
 struggling Illinois law student who re-
 fused to take advantage of the law."

When Lincoln began practice, he
 found himself in the midst of men who
 seemed eager to go to law on the slight-
 est pretext, and it would have been eas-
 ily possible for him to secure plenty of
 business if he had been willing to en-
 courage litigation. But for many years
 his receipts were small, simply because
 he was too honorable to stir up strife.
 This famous bit of advice, given later to
 other lawyers, was the outgrowth of
 these early days: "Discourage litigation.
 Persuade your neighbors to com-
 promise whenever you can. Point out to
 them how the nominal winner is often the
 real loser—in fees, expenses, and waste
 of time. As a peace-maker the lawyer
 has a superior opportunity of becoming a
 good man. There will always be enough
 business. Never stir up litigation. A
 worse man can scarcely be found than
 one who does this."

That he refused to take a case for a
 would-be client when he knew the cause
 to be unjust is a fact well known. That
 he sometimes abandoned a case when
 during a trial he learned that he had
 been deceived has been pointed out as a
 breach of professional honor. But Lin-
 coln had his own code of honor. Mr.
 Hill tells the story of a trial in the
 course of which he found he was defend-
 ing a guilty man. He refused to speak
 to the jury according to plan, declaring
 that, should he speak, the men in the
 box would know that the prisoner was
 guilty by the expression of his advocate's
 countenance. Another case is spoken of
 when the lawyer went even further in his
 devotion to honest practice. Learning
 that his client had been guilty of fraud,
 he left the courtroom. When he was
 sent for, he gave this message: "Tell the
 judge that my hands are dirty, and I've
 gone away to wash them."

One, when he decided to take a case,
 he spoke words which deserve to be
 remembered by everybody: "Yes, we
 can doubtless gain your case for you;
 we can set a whole neighborhood at
 loggerheads; we can distress a widowed
 mother and her six fatherless children,
 and thereby get for you six hundred dol-
 lars to which you seem to have legal
 claim, but which rightfully belongs to
 appears to me, as much to the woman

and her children as it does to you. You
 must remember, however, that some-
 things legally right are not morally right.
 We shall not take your case, but we will
 give you a little advice for which we will
 charge you nothing. You seem to be a
 sprightly, energetic man. We would
 advise you to try your hand at making
 \$600 in some other way."

One more incident, in Mr. Hill's own
 words: "At another time he was very
 anxious to secure delay in a certain case,
 and Herndon (his partner) drew up a
 dilatory plea which would effectively
 postpone the trial for at least one term
 of court. It was the sort of thing which
 is condoned in almost every law office,
 but Lincoln repudiated it the moment it
 came to his notice. Is this founded on
 fact?" he demanded of his partner. Her-
 don was obliged to admit that it was not,
 urging in extenuation, however, that it
 would save the interests of their client,
 which would otherwise be imperilled. But
 Lincoln was not to be persuaded. "You
 know it is sham," he answered, "and a
 sham is very often but another name for
 a lie. Don't let it go on record. The
 cursed thing may come staring us in
 the face long after this suit has been for-
 gotten." Herndon complied with the in-
 struction, and the paper was withdrawn."

To be sure, this was not the accepted
 method of law practice. But it was Lin-
 coln's method. It caused criticism.
 Other lawyers said he did not observe
 the ethics of the profession. Even today,
 legal authorities say he was not a suc-
 cessful lawyer. It is true he did not
 grow rich from the fees of his work, as
 many other did. But he was rich in the
 approval of his own conscience. He was
 held in high esteem by those who watch-
 ed his honorable dealings. And he was
 unconsciously getting ready for the time
 when his country would need a man like
 him, a man honest in the face of specious
 temptations, a man fearless for the right,
 a man who counted character better than
 gold.

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Mark Lemon records a story about Lord Chancellor Eldon and Sir Arthur Pigott. The first always pronounced the word "lien" in two syllables, as if it was spelled li-en; the latter pronounced it in one syllable, lean, just as it would be pronounced in ordinary conversation. On this difference Jekyll wrote an epigram:

1813

Sir Arthur, Sir Arthur, why, what do you mean

By saying the chancellor's lion is lean?
Do you think that his kitchen's so bad as all that,

That nothing within it will ever get fat?

Lord Eldon's pronunciation of this legal term was not unknown at one time in America. Witness an anecdote about Lincoln. He once appeared in the supreme court in a case involving a lien upon a piece of property.

The presiding judge was noted alike for obstinacy and pedantry. Lincoln, referring to the lien, pronounced it "lean." This visibly affected his honor.

"Li-en, Mr. Lincoln," he gently remonstrated.

"Very well," said Lincoln. But a little later he forgot himself and out came the pronunciation "lean."

Once more he was corrected by the judge.

"As you please," retorted Lincoln, somewhat nettled.

"Not as I please," came from the bench. "That is the pronunciation favored by Webster and by Worcester. It so obtains at Westminster hall and also at our own supreme court in Washington."

Lincoln had now recovered his constitutional good humor. Bowing to the court, he said: "Certainly, your honor, certainly. I only desire to say that if my client had known there was a lion on his farm for so long a time, I am sure he would not have stayed there even long enough to bring this suit, and I should not have had the pleasure of appearing before this honorable court."

ANSWERING "YES" OR "NO."

Lincoln's Question Was a Poser For His Lawyer Opponent.

The late Colonel Waters at the time of his death had practiced law longer than any other lawyer in Kansas City. He was admitted to the bar in Macomb, Ill., before he was twenty-one years old. Abraham Lincoln was a lawyer practicing in the same district then, and Waters rode in the same circuit with him. Once Colonel Waters retained his friend to help him in a case.

1516
The opposing lawyer, says the Kansas City Star, demanded one of their witnesses should answer a certain question with a direct "Yes" or "No." Lincoln contended the question could not be answered in that way.

"There's no question on earth that can't be answered with a direct 'Yes' or 'No,'" declared the lawyer.

"You take the stand for a moment and I'll show you," said Lincoln.

The lawyer took the stand, and Lincoln asked him, "Have you quit beating your wife?"

The lawyer became indignant, and Lincoln repeated his question. The judge, laughing heartily, insisted the lawyer must answer.

With the aid of Lincoln, Waters won the case. Lincoln charged him \$25, a large fee in those days.

PECULIAR LEGAL VIEWS

Lincoln was once associate counsel for a defendant in a murder case. He listened to the testimony given by the witness after witness against his client, until his honest heart could stand it no longer; then, turning to his associate, he said: "The man is guilty; you defend him—I can't," and when his associate secured a verdict of acquittal, Lincoln refused to share the fee to the extent of one cent.

Lincoln would never advise clients to enter into unwise or unjust lawsuits, always preferring to refuse a retainer rather than be a party to a case which did not commend itself to his sense of justice.

1921

SEEKS ETHICAL VIEWS.

Bail Association to Study Lincoln's Stand on Criminal Defense.

NEW YORK, Feb. 12.—(P)—A special committee of lawyers from the New York County Criminal Courts Bar Association sought today information on Abraham Lincoln's views as to the ethical duty of a lawyer to defend a criminal.

"It has been said that Lincoln never defended a man who he thought was guilty," said Robert Daru, president of the Association, in naming the committee. "Some claim that he held it to be the duty of a lawyer to represent a criminal regardless of the lawyer's personal opinion as to innocence.

"All lawyers will be interested to learn, if possible, Lincoln's real views on this seriously disputed concept of professional ethics."

"LINCOLNIANS"

The stories told of Abraham Lincoln—like the Mayflower's furniture—grow in volume with each passing anniversary. They are always of interest, however, and so, without apology, we give the following, which will be new to the most of us.

Lincoln always wanted to know, "Is it right?" Once, on finding his client had deceived him, he left the room, and would not return when sent for, but said, "I found my hands were dirty, and I washed them, and intend to keep them clean."

(9/4)

2-15-26

Lincoln Great Lawyer Only in High Courts

SPRINGFIELD (Ill.), Feb. 11.—(A.P.)—Abraham Lincoln, whose birthday anniversary will be observed tomorrow, was only an ordinary success as a lawyer in the circuit court, but he was probably unsurpassed in the higher tribunals of the land.

All of which, believes Paul M. Angle, centers on the deciding factor in his legal career—time.

Angle, who is secretary of the Lincoln Centennial Commission, revealed his conception of Lincoln's legal ability before a special gathering of the commission today. He read from records in support of his contention.

"To the vexing question of Lincoln's capacity as a lawyer," Angle declared, existing court records provide no definite answer. They indicate, but do not prove, that in actual trial work Lincoln was no more successful than many of the lawyers who practiced with him.

"However, in the higher courts—the State Supreme Court and the United States courts here and

at Chicago—Lincoln had an enviable record. It is doubtful if any lawyer has ever surpassed his record in the State Supreme Court.

"From these facts we can say that as a lawyer, Lincoln was great when he had time to think and study."

Lincoln Extolled By Hughes for Thoroughness

Chief Justice, Curtis, Doak
and Hines Pay Tribute
at Capital Ceremonies

From the Herald Tribune Bureau

WASHINGTON, Feb. 12. — Charles Evans Hughes, Chief Justice of the United States, and Vice-President Charles Curtis, together with Cabinet members and bureau heads, led official Washington today in paying tribute at various exercises to the memory of Abraham Lincoln.

Among multiplying laws, an increasing volume of litigation and equivocally worded legislation the bar must meet a new test of responsibility, Chief Justice Hughes declared as he held up the example of Lincoln as the finest type of both lawyer and statesman. Complimenting the ability of attorneys in the service of the Federal government, the Chief Justice besought them not to force statutes "to an extreme construction."

Mr. Hughes spoke at a dinner tonight of the Federal Bar Association in the Mayflower Hotel, at which Hugh Guthrie, Canadian Minister of Justice, was also a speaker. William D. Mitchell, United States Attorney General, was toastmaster.

At a luncheon in the Mayflower earlier in the day under the auspices of the Lincoln Memorial University a symposium of tributes to Lincoln was composed in the addresses of Vice-President Curtis, Ray Lyman Wilbur,

Secretary of the Interior; William N. Doak, Secretary of Labor; Brigadier General Frank T. Hines, administrator of the Veterans' Bureau, and others. By radiogram from Europe came also a message of respect for Lincoln's memory from T. G. Masaryk, President of Czechoslovakia. All the addresses were broadcast throughout the nation by the National Broadcasting Company.

Another part of the day's program at the Capitol was a talk over the Columbia Broadcasting Company by Lewis G. Reynolds, custodian of the Lincoln Museum, who spoke from the little room where Lincoln died after he had been shot in Ford's Theater, located across the street. Mr. Reynolds told of the President's last hours and described the house of his death, then a humble rooming house.

Despite an "inordinate multiplication" of laws, legislatures have not been able to keep pace with social demands, and they have turned over the business of regulation to great varieties of administrative agencies, Chief Justice Hughes said in his address. With the corresponding growth in the number of government bureaus the responsibility of the lawyers, especially those in government service, to protect society from "bureaucratic excesses" is all the heavier, he continued.

The Chief Justice pointed to "strangely ambiguous" language of many laws as a "breeder of controversies," but held up the tax system as being the product of experts. Depart-

ment solicitors could check the increasing volume of litigation, he suggested, by not attempting to force statutes to an extreme construction and by a willingness to take a reasonable measure of responsibility.

Of Lincoln as a lawyer, the Chief Justice said:

"He was more than shrewd. We erect no monuments to shrewdness. He was fair and thorough."

The Canadian Minister of Justice spoke of Lincoln as belonging to the world—a man "whose work and whose name will survive in world history until time shall cease to flow."

Telling of the bonds of law between the United States and Canada, Mr. Guthrie said, "A general recognition throughout the world of the supremacy of law would prove the strongest guarantee of world peace."

In a plea for the World Court Mr. Guthrie urged lawyers generally to support it as "a bulwark for the peace of the world." He expressed regret that the United States had not yet given adherence to its protocols.

"The world's great lawyers must lend their powerful support to the only fair, reasonable concrete proposition which has ever been evolved from the mind of man for the peaceful and final settlement of international disputes," he said. "I refer of course, to the permanent Court of International Justice, commonly called the World Court at The Hague. Notwithstanding many early misgivings and forebodings lawyers and statesmen throughout the world will today agree that the World Court has long since passed the experimental stage and has amply justified both the efforts and the hopes of its founders. It has now become a valuable bulwark for the peace of the world. While it is true that the World Court is a human structure, and, as such, is not in all respects a perfect model, yet it has already performed much valuable world service for which humanity may justly feel thankful. We must all strive to

uphold the prestige and authority of that great tribunal in every possible way. I hope to live to see its functions enlarged and its jurisdiction extended to every quarter of the globe; and to this end we must enlist the very best brains and the very best efforts of the very best lawyers in the world.

"No one realizes more fully than I, no one appreciates more highly than I do the valuable co-operation, the wonderful practical assistance rendered by some of the great lawyers of the United States to the institution, the Constitution and the actual working of the World Court as it exists today—the great names of Root, Moore, Hughes and Kellogg will always stand out pre-eminently in regard to the World Court, notwithstanding that this great and powerful nation has not as yet given its complete adherence to that tribunal. However, as to the attitude of the United States to the World Court, I offer no opinion, I make no suggestion, certainly no criticism. I merely express profound, and I think also, universal regret."

To the believers in peace, Mr. Guthrie sounded the warning that armaments now were greater than before the World War and that arms expenditures had been increased, not decreased. There must be a common ground of law on which the peace of the world can be built, he said.

Mr. Guthrie mentioned also the League of Nations to declare his belief in its influence for good and his hope for its continued success. If it can remove the fear and burden of war it will have done the greatest thing for mankind since Christ, he said.

The luncheon speakers confined their remarks largely to tribute to Lincoln.

"The American people of today," said Vice-President Curtis, "love and revere the memory of Lincoln, and deservedly so. This feeling should be preserved, not destroyed. I thoroughly disapprove the tendency of modern biographers whose aim seems to be as stated by Dr.

William Lyon Phelps 'to ruin the memories of their victims.' These men may get on the front page for a day, but they will not last long, and their efforts will not succeed."

"The supreme test of greatness, of sincerity, and of integrity," said Secretary Doak, "is in the way a man stands steady when he seems to be fighting alone. Lincoln was unmoved by criticism or condemnation."

Wilbur's Tribute to Lincoln

Secretary Wilbur said:

"He thought and acted nationally, but in harmony with each human heart. He gradually emerged in the war years into a dominating revered leader. His humor, his toleration, his patience, his willingness to face realities, his stern dislike of sham, his suspicion of dogma, his directness of vision and willingness to accept responsibility and assume the full prerogatives of the executive head of our country, carried him through and held the country together."

General Hines warned "that the Red movement" must be met in this country by a house cleaning and the taking of precautions in advance of trouble. "The wise horticulturist does not wait," he said, "until insect pests have ravaged his orchards."

"We would have little to fear," he continued, "from destructive forces working within our country, whether of our own production or a menace from alien lands, if they were consistently met with a stalwart patriotism and a civic consciousness alert and diligent functioning in the example and demands of a populace alive to the privileges and responsibilities of their citizenship."

In his message to the luncheon President Masaryk of Czechoslovakia said: "I have always loved Lincoln and learned from him."

"He is one of the eternal lights of freedom in darkness of egotism, sentimentality and political superstitions."

Lincoln's guileless exterior concealed a great fund of shrewdness and common sense about ordinary matters, as well as genius in the higher realms.

"I remember once," writes Whitney, "that while several of us lawyers were

together, including Judge Davis, Lincoln suddenly asked a novel question regarding court practice, addressed to no one particularly, to which the Judge, who was in the habit certainly of appropriating his full share of any conversation, replied, stating what he understood the practice should be. Lincoln thereat laughed and said: "I asked that question, hoping that you would answer. I have that very question to present to the court in the morning, and I am very glad to find out that the court is on my side."

week by week 11/2 6/3 2

No man had a greater respect for real learning, but for the display article he had naught but contempt. Once a lawyer arrayed against him made use of a Latin maxim for the evident purpose of impressing his hearers or to perplex Mr. Lincoln, to whom he said, "Is not that so?"

"If that is Latin," dryly said Lincoln, "I think you had better call another witness." *week by week 1/17/32*

Once when opposing counsel objected to a juror on the ground that he knew Mr. Lincoln, and as this was a reflection upon the honor of a lawyer, Judge Davis promptly overruled the objection. But when Mr. Lincoln, following the example of his adversary, examined two or three of the jury and found that they knew his opponent, the Judge interfered.

"Now, Mr. Lincoln," he observed, severely, "you are wasting time. The mere fact that a juror knows your opponent does not disqualify him."

"No, your Honor," responded Mr. Lincoln dryly, "but I am afraid some of the gentlemen may not know him, which would place me at a disadvantage."

by Lincoln 11/19/32

"We had concluded a murder case," writes Whitney, "once in Champaign at noon, in which we had no chance of acquittal, and hoped the jury would disagree. In the afternoon a young lawyer from another county was making a rousing speech in a whisky-selling case, although there was nothing to talk about; but the chap was 'wound up' for a big speech and he couldn't stop till he had run down. We were in one corner of the court room, anxiously hoping that our jury, which still remained out, would stay so, and finally disagree. Meanwhile, we were bored and amused at the Demosthenean effort going on in a plain case of selling whisky. 'I wish that fellow would stop,' said Lincoln. 'I am afraid our jury will agree for the sake of getting in to hear his speech.'

rec'd by mail 11/26/32

The Arduous Progress of Lawyer Lincoln

"Lawyer Lincoln," by Albert A. Woldman. Houghton Mifflin Co.

Lincoln, closest to the people's heart, and yet the least known of our heroes. In the national sense he had no career before his election as President. He had been in office four years and two months when Booth killed him. In the turmoil of war, with the rebellious South before him and political snipers in the rear, he saved the Union and freed the slaves. Then he was gone, and his suddenly worshipful fellow-countrymen made haste to invest him with attributes that partake of wonder and reverence. The apocryphal Lincoln dwells in Valhalla. To clarify his character in part Mr. Albert Woldman has written an excellent book about "Lawyer Lincoln." At the risk of disturbing those who prefer to believe that an obscure country practitioner was suddenly revealed as a heaven-born genius he proceeds to detailed examination of painful ways by which Lincoln got his first foothold in the law, and by zeal and industry improved his position.

Of education of the schools he had none. But he had fended in the school of life, his faculties sharpened by experience as a surveyor, State legislator, a political stump-speaker and a Congressman. He came to Washington again with nearly a quarter of century at the Illinois bar, and earned reputation as a lawyer both resourceful with a jury and sound in counsel. This product of the prairies, a "mast-fed lawyer" he styled himself, was full armed.

The year 1937 marks the centennial of Lincoln's admission to the bar. His biographers have given his legal career slight attention. It evidently was accessible, for Mr. Woldman's book is well documented. His first acquaintance with the law was in the role of defendant. It was in the spring of 1827, and Abe Lincoln, but eighteen years old and six feet four, had built a scow to deliver travellers aboard steamers passing on the Ohio River. For that he was arrested on the complaint of Lin and John Dill, Kentucky ferrymen claiming the exclusive privilege at that point, and haled before Squire Samuel Pate of Lewisport, who was interested in young Lincoln's diffident suggestion that even if the Dills had an exclusive license for a ferry across the river, how was it a crime to take people part way across. The Squire was impressed, and dismissed the warrant. "Read up a bit on the law," he advised Abe, and the young man was encouraged to paddle across the Ohio to attend his sessions on "court days." In Indiana, too, he attended the court terms at Boonville and Rockport. "The things I want to know are in books," he confided to John Pitcher a circuit lawyer. "My best friend is the man who'll get me a book I ain't read."

Perhaps Lincoln's experiment with keeping a country store decided his career. One day a man migrating to the West stopped to suggest that he purchase a barrel of stuff for which he had no room in the wagon. Lincoln took it for fifty cents, and found at the bottom an edition of "Black-

stone's Commentaries." It was a summer's reading. "I read," he said, "until I devoured them." Law became the absorbing interest of his life. He borrowed a few law books owned by Squire Bowling Green, at whose house he boarded a while, and made the most of every leisure moment. He studied while walking between New Salem and Springfield, and friends saw him wandering at random across fields, the while he recited salient points of what he had read. He served no office apprenticeship, and took no formal examination for the bar. In records of the Circuit Court of Sangamon county, dated March 24, 1836, is found this entry "It is ordered by the court to be certified that Abraham Lincoln is a person of good moral character." On the 9th of September that year his license to practice law was issued by two justices of the Supreme Court. So he became "the Hon. A. Lincoln, Esquire, Attorney and Counsellor at Law."

His first partner was Major John Stuart, with whom he had served in the Black Hawk War. Stuart was active in politics, and leaned heavily on the common sense and oratorical ability of his junior, who tried cases on principle rather than on precedent. Lincoln did most of the trial work, and they split the modest fees. Charges were seldom more than ten dollars and five dollars was the commonest fee. On Stuart's second election to Congress the partnership was dissolved. Lincoln now engaged in practice with Stephen Logan, an ex-judge whose ruling passion was the law. Painstaking and precise, he could not tolerate slipshod methods. He was perhaps the most constructive influence in Lincoln's life. The future President learned the value of thorough analysis, his opponent's case no less than his own.

The Eighth Illinois Circuit, on which Lincoln rode until he was called to Washington, embraced 14 counties, and the grand circuit was some five hundred miles. He led alike in the court room and the genial night sessions. His associates never forgot his homely wit and humor and the contrasting moods of depression. At times, Herndon said, "Melancholy dripped from him as he walked." . . . Lacking broad education, he was not a great lawyer through profound knowledge of the law. It was the testimony of associates that he most excelled when precedents failed. In original reasoning he had no superior at the Illinois bar.

Lincoln, the self-trained lawyer, suddenly found himself shifted from a provincial law office to the Presidency of the United States in the nation's greatest peril. How he acquitted himself legally, and especially in his celebrated collision with Chief Justice Taney of the United States Supreme Court, Mr. Woldman sets forth. That is for those learned in the law. The value of "Lawyer Lincoln," his book, is chiefly in illumination of his development, how he found himself and pressed on. In that it is a significant work.

S. W.

Lincoln, The Prairie Lawyer

One hundred years ago on April 15, 1837, Abraham Lincoln began his law practice in Springfield, Illinois. Upon his return from the Black Hawk War when but twenty-three years of age, he tried to make a decision about what he should do in life. In his own words he says he "thought of learning the blacksmith trade -- thought of trying to study law -- rather thought he could not succeed at that without a better education."

It seemed to be a question of whether or not he should do the work which he knew he was physically adapted to do or attempt a task which would require great mental effort and possible result in failure. Was he to become a blacksmith or a disciple of Blackstone? That was the question.

Two years later he reached the final decision that he would study law.

The importance of this resolution is being realized more and more, and it stands out as one of the major conclusions of his entire life. The following excerpt from an autobiographical sketch which he prepared in the third person recalls this early decision:

"The election of 1834 came, and he was then elected to the legislature by the highest vote cast for any candidate. Major John T. Stuart, then in full practice of the law, was also elected. During the canvass, in a private conversation he encouraged Abraham (to) study law. After the election he borrowed books of Stuart, took them home with him, and went at it in good earnest. He studied with nobody. He still mixed in the surveying to pay board and clothing bills. When the legislature met, the lawbooks were dropped, but were taken up again at the end of the session. He was re-elected in 1836, 1838, and 1840. In the autumn of 1836, he obtained a law license, and on April 15, 1837, removed to Springfield, and commenced the practice -- his old friend Stuart taking him into partnership."

Lincoln's first success at the polls took place on August 4, 1834, and it is very likely that he made the above important decision during the preceding month.

Recently it has been discovered that Lincoln corrected -- by making notes on the margin -- a campaign biography of 1860. This statement he left undisturbed:

"The peculiar manner in which he afterward pursued his law studies, was not calculated to allay popular feeling. He bought an old copy of Blackstone one day at auction in Springfield, and on his return to New Salem, attacked the work with characteristic energy.

"His favorite place of study was a wooded knoll near New Salem, where he threw himself under a wide-spread oak and expansively made a reading desk of the hillside. Here he would pore over Blackstone day after day, shifting his position as the sun rose and sank, so as to keep in the shade, and utterly unconscious of everything but the principles of common law. People went by, and he took no account of them; the salutations of acquaintances were returned with silence, or a vacant stare; and altogether the manner of the absorbed student was not unlike that of one distraught."

This early appraisal of Lincoln's activities is in vivid contrast to a tribute by Lord Shaw, a noted English legal authority, who in appearing before the American Women's Club in London, said that he considered Abraham Lincoln one of the five greatest lawyers of the past. The others he named were Papinian, Grotius, Duncan-Forbes, and Lord Mansfield. Certainly this statement coming from an Englishman was not made from any provincial bias, although an estimate of Lincoln's legal attainments by his own countrymen might not rate him above many other American jurists.

1 Abraham Lincoln's prominence as an attorney at law, invites a review of some of the elements which brought him to the far reaching decision of 1834.

1, The first and most important contribution influencing his decision is the fact that he had an analytical and logical mind. He was an excellent mathematician, and his mastery of Pike's arithmetic in the Indiana wilderness laid a foundation for his progress in this branch of the sciences. In 1832 he learned the principles of surveying in an incredibly short time with no instructor to guide him. His ability to master Euclid in later life confirms his power to concentrate and reason, indicating a type of mind altogether legal.

Another major factor which must have contributed much to Lincoln's decision

2 to study law was his love for the open forum. There is evidence that as a youth he entertained his companions with recitations of both a political and religious nature. The year he became of age he was pitted against two seasoned political veterans of the stump and came off the victor. He had doubtless observed that the best preparation for a political career in those days was the study of law and that the best practical training school for a finished speaker was the court room.

3
II The closely interwoven interests of his legal and political activities is best illustrated by a study of the origin and termination of Lincoln's three law partnerships at Springfield. The observer is likely to be impressed with their political trends rather than their legal aspects. While the many local partnerships which Lincoln made with lawyers in different county seats on the circuit he traveled, were formed for the primary reason of building up a clientele, the Springfield associations can be more clearly traced to political expediency. Possibly his connections with Stuart, Logan, and Herndon would be more correctly termed political partnerships.

One is apt to think of John T. Stuart, senior member of the firm Stuart and Lincoln, as a much older man than his former apprentice, but such is not the case. Stuart was born near Lexington, Kentucky, on November 10, 1807, just fifteen months before Lincoln's birthday. Stuart's father was a Presbyterian clergyman who saw to it that his son had a college education, and he was graduated from Centre College in 1826 about the time Lincoln had completed his studies in the pioneer log cabin schools of Indiana.

There is a tendency to draw the conclusion from the superior training of Stuart, and the more distinguished family from which he came, that he and Lincoln did not have much in common, but this does not appear to be so. They were both born in Kentucky, both migrated to Illinois the same year, both were Whigs and interested in politics, both were officers in the Black Hawk War, both served in the Illinois legislature, at the same time. One who observed their intimacy said that "socially and politically they seemed inseparable." Although they had so much in common the one interest above all other which bound them together was politics. One of Stuart's

biographers has said that "Stuart's predominating interest was politics."

2 Lincoln's second law partner, Stephen T. Logan, was born in Franklin County, Kentucky, February 24, 1800. It will be observed that Logan was only nine years older than Lincoln. When they established their law firm in 1841, Lincoln was thirty-two and Logan forty-one. Lincoln already had achieved unusual success in being elected to the Illinois legislature during his early years and this fact could not have been overlooked by Judge Logan who invited Lincoln to become associated with him. Logan had served as a commonwealth attorney in Kentucky before coming to Illinois and three years after his arrival in Illinois was elected Judge of the First Judicial Circuit.

It must be more than a coincidence that Logan began his political career as a member of the Illinois Legislature at just the time his partner Lincoln decided not to announce for another term. There have been different reasons set forth for the culmination of this partnership, but disagreement about certain political questions may have played just as important a part as some matters of economic importance, often set forth as the reason for dissolution of the firm Logan and Lincoln.

3 Lincoln's third and last partner, who was associated with him for twenty years, was born in Kentucky on December 28, 1818, not more than twenty-five miles from where Abraham Lincoln himself was born. So all three of Lincoln's Springfield law partners were Kentuckians like himself and came by their political inheritance naturally.

Herndon admitted that during the early years of his association with Lincoln he was little more than an office clerk, and certainly his inadequate law training would not make him a valuable legal assistant to the firm of Lincoln and Herndon. He was, however, a valuable political ally and it is evidently his efficiency as a political secretary to Lincoln that was responsible for the long partnership.

His letters to Lincoln, and those he received in return, contain mostly references to political matters. We need only to read some of Herndon's own

testimony to conclude what was the chief point of contact between Lincoln and Herndon, and that was politics.

111 When Lincoln's fame as a lawyer became known throughout Illinois there were many law students who aspired to a place in his office. To one young man who wrote for a position he replied: "Mr. Herndon controls our office in this respect and I have known of his declining at least a dozen applications like yours within the last three months."

1. Isham Reavis wrote to Abraham Lincoln in 1855 expressing a desire to read law with him. Lincoln replied on November 5th, "I am from home too much of my time, for a young man to read law with me advantageously." Lincoln then proceeded to give the young man some valuable information and wrote, "If you are resolutely determined to make a lawyer of yourself the thing is more than half done already." Lincoln further concluded that "It is a small matter whether you read with anybody or not.... get the books and read them till you understand them, in their principal features, that is the main thing....Always bear in mind that your resolution to succeed is more important than any one thing."

2. Henry B. Rankin was but ten years of age when first he met Abraham Lincoln, and nine years later he entered the Lincoln and Herndon law offices. Rankin says, "I never had any hesitancy, while a student in his office, about going to Lincoln with a question regarding a point of law, or the minutest details of papers I was expected to prepare. He never dismissed me with impatience. If he knew the answer to my question he stated it, or told where to find it."

3. A letter written to Lincoln by William H. Grigsby soliciting a place in his office brought this bit of advice, "If you wish to be a lawyer, attach no consequence to the place you are in, or the person you are with; but get books, sit down anywhere, and go to reading for yourself. That will make a lawyer of you quicker than any other way."

4. A brother of John H. Littlefield met Lincoln at Ottawa in 1858 and spoke to him about John entering his office to read law. Lincoln said, "All right, send him down, and we will take a look at him." Littlefield has left us the following

reminiscence about this early contact:

"The morning I entered the office Mr. Lincoln and his partner, Mr. Herndon, were both present. Mr. Lincoln addressed his partner thus: 'Billy, this is the young man of whom I spoke to you. Whatever arrangements you make with him will be satisfactory to me.' Then, turning to me he said, 'I hope you will not become so enthusiastic in your studies of Blackstone and Kent as did two young men whom we had here. Do you see that spot over there? (pointing to large ink stain on the wall). Well, one of these young men got so enthusiastic in his pursuit of legal lore that he fired an inkstand at the other one's head, and that is the mark he made.'"

James Thornton wrote requesting that a Mr. Widner be permitted to become a student in Lincoln's office. Mr. Lincoln replied on December 2, 1858, that inasmuch as Mr. Widner apparently was no longer a young man, "the cheapest, quickest, and best way for Widner to make a lawyer of himself is that he read books for himself without an instructor.....Let Mr. Widner read Blackstone's Commentaries, Chitty's Pleadings, Greenleaf's Evidence, Story's Equity, and Story's Equity Pleadings, get a license, and go to practice, and still keep reading." Lincoln further concluded, "That is precisely the way I came to the law."

IV ADVICE TO YOUNG LAWYERS
Even after Lincoln became a presidential nominee he took time to give advice to young men desiring to study law, as the following letter to J. M. Brockman, dated September 25, 1860, reveals:

"Yours of the 24th, asking 'the best mode of obtaining a thorough knowledge of law,' is received. The mode is very simple, though laborious and tedious. It is only to get the books and read and study them carefully. Begin with Blackstone's 'Commentaries,' and after reading it carefully through, say twice, take up Chitty's 'Pleadings,' Greenleaf's 'Evidence,' and Story's 'Equity,' etc., in succession. Work, work, work, is the main thing."

It is a significant fact that Abraham Lincoln's only son to arrive at maturity became a lawyer, and we are fortunate in having Robert Lincoln's account of what he calls the "only talk I ever had with my father as to my studying law." He wrote, "I was going back to Cambridge to enter the Law School. He (Abraham

Lincoln) said he thought I was right. 'If you become a lawyer you will probably make more money at it than I ever did but you won't have half the fun.' He of course had in mind the life he so much enjoyed on the circuit."

On one occasion Abraham Lincoln prepared some notes for a law lecture and made two direct appeals to young men, first warning them not to "rely too much on speechmaking" and in conclusion made his now famous statement: "Resolve to be honest at all events; and if in your own judgment you cannot be an honest lawyer, resolve to be honest without being a lawyer."

There is no question relating to the legal practice of Abraham Lincoln, the "Prairie Lawyer" that is of more interest to the profession than his attitude towards the fees which he received.

Judge Davis, who often presided in the courts where Lincoln practiced, on one occasion reprimanded him for the insignificant sums which he asked for his services. He said, "Lincoln, you are impoverishing the bar by your picayune charges." Although Lincoln was satisfied to work for a small fee, he saw the danger of an underpaid judiciary which he characterized as "a migratory supreme court" and salaries so low as to exclude all respectable talent.

2 A letter which Lincoln wrote to George P. Floyd of Quincy has often been used to show his attitude towards the collection of high fees:

"I have just received yours of 16th with check on Flag & Savage for twenty-five dollars. You must think I am a high-priced man. You are too liberal with your money. Fifteen dollars is enough for the job. I send you a receipt for fifteen dollars, and return to you a ten-dollar bill."

3 About the first of July, 1850, Lincoln prepared some notes for a law lecture. In one paragraph he discussed the question of lawyer's fees. His conclusions follow:

VI FEES "The matter of fees is important, far beyond the mere question of bread and butter involved. Properly attended to, fuller justice is done to both lawyer and client. An exorbitant fee should never be claimed. As a general rule never take your whole fee in advance, nor any more than a small retainer. When fully paid

beforehand, you are more than a common mortal if you can feel the same interest in the case, as if something was still in prospect for you, as well as for your client. And when you lack interest in the case the job will very likely lack skill and diligence in the performance. Settle the amount of fee and take a note in advance. Then you will feel that you are working for something, and you are sure to do your work faithfully and well. Never sell a fee note -- at least not before the consideration service is performed. It leads to negligence and dishonesty -- negligence by losing interest in the case, and dishonesty in refusing to refund when you have allowed the consideration to fail."

2 In Lincoln's early practice it appears as if the usual fee asked was five dollars. To one man who requested some legal advice and enclosed five dollars, after making the investigation, Lincoln wrote, "The five dollars is a sufficient fee."

Ten dollar fees seemed to be the order in several cases later on. He told one man who had sent one payment of a dollar and another of ten dollars, "I paid two to the register and pocketed the other nine." About the same time he concluded a letter with the request, "Now, if you please, send me ten dollars as a fee." In still another case the amount collected was \$110, and Lincoln said that his fee would be ten dollars, which he divided equally with his partner in the case.

3 In settling a bill Lincoln often evened things up. He got judgment in one suit for \$116.90 and kept \$16.90 for the fee, forwarding the client \$100. In adjusting one account he wrote to the client: "If you are agreed, let it be as follows: give me credit for two years' subscription to your paper and send me five dollars in good money."

17.11 Among the important cases tried by Lincoln none has been so often cited by other courts as the agitation over the right of the Illinois Legislature to exempt railroad property from taxation or to commute the rate of taxes for a fixed sum. This case, won by Lincoln for the railroad interests, brought him his first large fee, although he was obliged to sue the company to collect it.

A river steamer "The Effie Afton" ran against a pier of the Rock Island Bridge over the Mississippi, and was destroyed. The contest in the courts over the

right to obstruct a navigable stream was finally won by the railroad interests with Abraham Lincoln as the chief counsel. The decision paved the way for the developing of coast to coast **railroads**.

Although Lincoln was retained as one of the counsel in the McCormick Reaper Case, he had no active participation in the pleadings. He prepared a long brief, but after arriving at Cincinnati, where the case was to be tried, it was decided that but two of the three attorneys should speak and Lincoln was left out and his brief unused. The importance of this case in Lincoln's life was his reaction towards the highly trained lawyers whom he observed in the trial. He went home to more fully equip himself for future legal battles.

The son of Jack and Hannah Armstrong, old friends of Lincoln at New Salem, became involved in the murder of a companion named Metzker. Lincoln wrote to Mrs. Armstrong, then a widow, that he would undertake the defense of her son without charge. In the course of the trial an almanac was introduced as evidence that the testimony of one of the principal witnesses against Armstrong was in error. It helped materially to free Armstrong.

The "Sandbar Case," as it is usually called, involved the question of ownership in newly-made land caused by sand being washed in from Lake Michigan at the mouth of Chicago River. This was a hard fought case and had already been heard twice, the jury having disagreed on the second trial. Lincoln was called into the case and, largely through his efforts, a decision was reached. It was the last real important trial in which he participated.

Conclusion
In the introductory words used by Abraham Lincoln in his lecture on law already mentioned, he said: "I find quite as much material for a lecture in those points wherein I have failed as in those wherein I have been successful." It might be appropriate to conclude this discussion on "Lincoln, the Prairie Lawyer" with some timely quotations taken from his writings.

↓ "The case cannot be gained by much talking."

↓ "Every particular case will have its modifying circumstances."

↓ "You must remember some things legally right are not morally right."

✓ "Never stir up litigation. A worse man can scarcely be found than one who does this."

✓ "Extemporaneous speaking should be practiced and cultivated. It is the lawyer's avenue to the public."

✓ "In law it is good policy never to plead what you need not, lest you oblige yourself to prove what you cannot."

✓ "Look over it carefully, and conclude I meant all I said, and did not mean anything I did not say, and you will have my meaning."

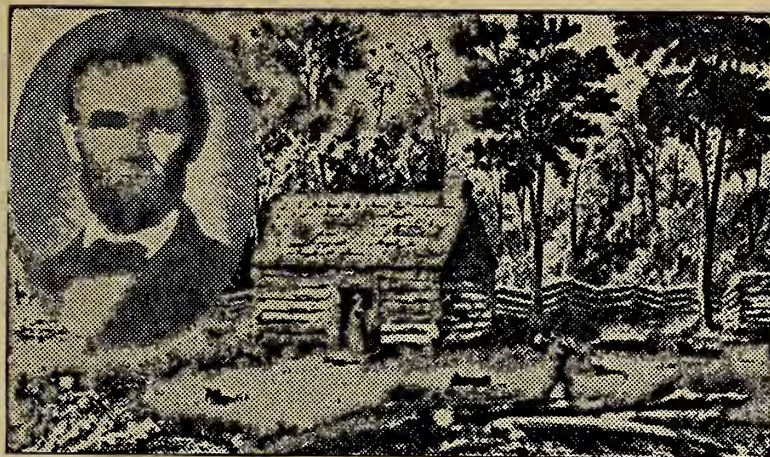
✓ "If any one, upon his rare powers of speaking, shall claim an exemption from the drudgery of the law, his case is a failure in advance."

✓ "The leading rule for the lawyer, as for the man of every other calling, is diligence. Leave nothing for tomorrow which can be done today."

✓ "Discourage litigation. Persuade your neighbor to compromise whenever you can.....As a peacemaker the lawyer has a superior opportunity of being a good man. There will still be business enough."

(Sources: Lincoln Lore Nos. 135, 172, 276, 280, 288, 390. Published by The Lincoln National Life Insurance Company, Fort Wayne, Indiana.)

SURVEY REVEALS LINCOLN'S EARLY LAW WORK



THE LINCOLN HOME IN THE SANGAMON BOTTOM, NEAR DECATUR, ILLINOIS, IN 1830.

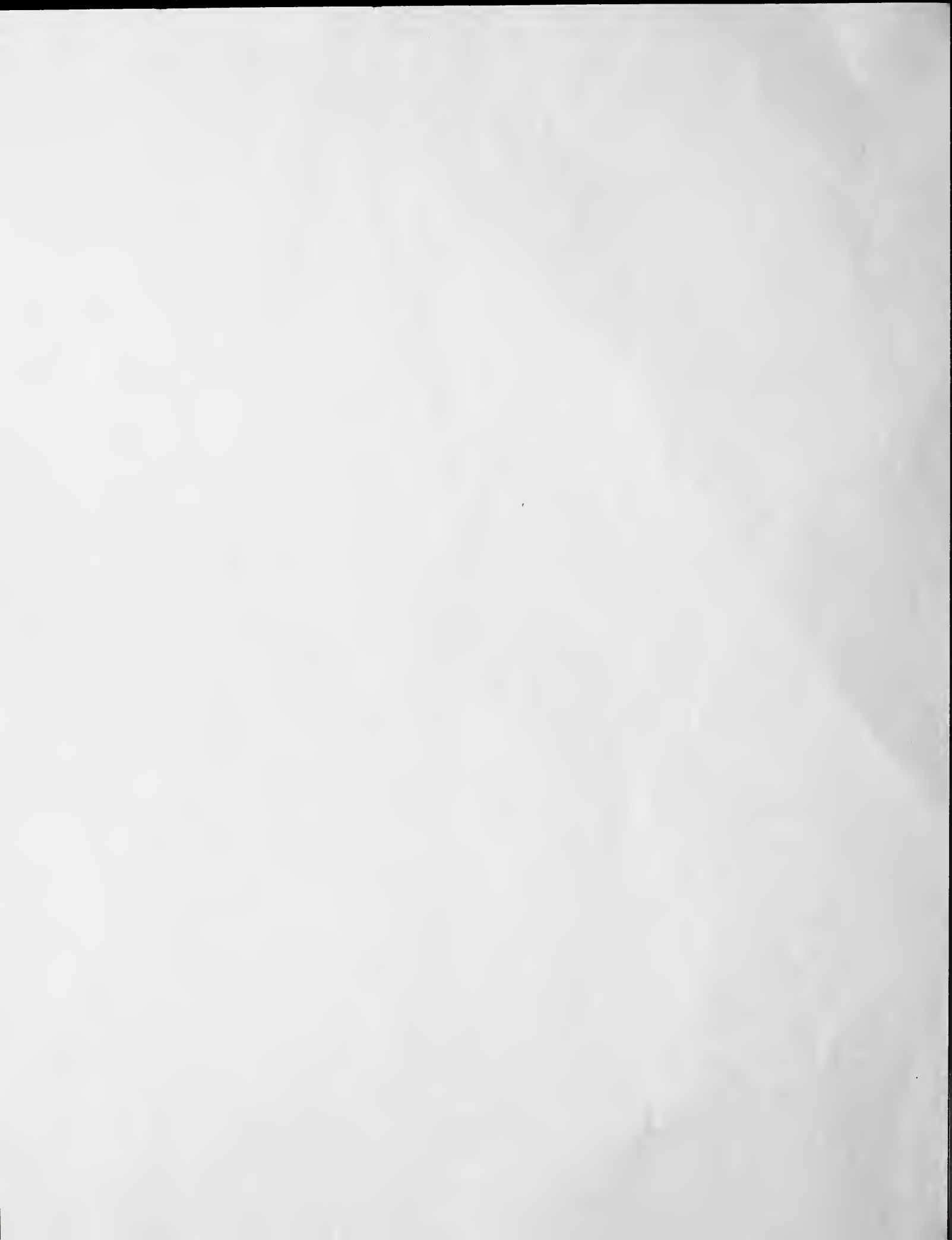
*The answer of Abraham Lincoln guardian ad litem
in the infant heirs of John Lowry deceased
to a Petition filed in the Macon Circuit Court
by John Lowry, administrator of the estate of said
deceased John Lowry deceased, praying for establishing
the real estate of said deceased—*

*This respondent
in answer to the above named Petition, states
that he has examined said Petition and knows
the contents and that he knows of no good
reason why it is inconsistent with the subject of the
said infant heirs, why the heirs of said Petition
should not be paid—*

*Abraham Lincoln
Guardian ad litem*

THE story of the common man of Illinois who blazed a pioneer's trail and made the state synonymous with agriculture and industry, has been vividly brought to light by the Historical Records Survey, a W.P.A. project employing 210 workers in a state wide inventory of county courthouses and municipal records. From the musty pages of county and city minute books, old land grants, election returns, wills and court proceedings the social, political and economic development of the people of the state from early days when Illinois was a part of France under the rule of Louis XIV to modern times, is presented in colorful outline.

The mighty figure of Abraham Lincoln emerges from the faded script of old letters and records. Recently discovered in the Macon county courthouse, Decatur and typical of the kind of document unearthed by the Survey, is an account of a circuit court case in which Lincoln was a participant as guardian for the infant heirs of one John Lowry. The record phrased in crisp, legal language, is written in Lincoln's painstaking, clear script and contains his signature. Dated 1838, it is unique in the fact that it exemplifies the kind of case in which Lincoln as a youthful lawyer of twenty-nine was engaged. It is valued by collectors at several hundred dollars.



1. - My dear Dr. Warren:

You may have this, but it was
in an old paper (name gone)
dated March 8 - 1876 - in case
you do not have it I copied it -

"Abraham Lincoln's Legal
Powers -"

Mr. Leonard Sweet of Chicago
gave this estimate of President
Lincoln's legal powers - "As a trial
lawyer he had few equals, and no su-
periors. He was as hard a man to beat in
a closely contested case as I have ever met.
He was wise in knowing what to attempt
and what to let alone. He was fair to
the Court, the jury and his adversary, but
could not be compelled to say that he by prac-
tice learned there was power in ~~this~~ this -

3) He was candid, and he was fair, but he knew how to make just the most of this. As he entered the trial, when he sawyers object, he would say he "rehearsed" it would be fair to let this in or that, and sometimes when his adversary could not prove what Mr. Lincoln knew to be the truth, he would say he "rehearsed" it would be fair to submit the truth to be so and so. When he did object to the Court after he heard his objection answered, he would often say, "Well I 'rehearse' I must be wrong." Now about the time he had practised this about three quarters through a case, if his adversary didn't understand him, he would wake up in a few minutes, finding that he had feared the Greeks too late, and make up to find himself beat.

3) He was wise as a serpent in the trial of a case, but I tell you I have got too many scars from his claws to certify that he was harmless as a dove. When the whole thing is unravelled the adversary begins to see that what he was so blantly giving away was simply what he could not get and keep - By giving away 60 points and carrying the seventh the carried his case and the whole case hanging on the seventh, he traded over the thing off which would give him the least aid in carrying that.

Yours faithfully,
1 Sara Jane English,
(Mrs. Henry Wm. English)

Jacksonville, Illinois.
August 10-1949 -

Law and Literature:

The Equipment of the Lawyer

by The Right Honourable Lord Justice Birkett • Lord Justice of Appeal, Royal Courts of Justice, England

■ This is Lord Justice Birkett's address at the Annual Dinner of the American and Canadian Bar Associations delivered on the evening of September 21, 1950, at the National Guard Armory in Washington. Lord Justice Birkett told his listeners that despite the change in emphasis in our day upon the function of the advocate, his thirty-five years at the Bar and on the Bench have proved to him that the affinity between law and letters is very close, and that to acquire the "mighty weapon of the well-stored mind", the lawyer must resort to wide reading, for in the realm of books he will find that which exists nowhere else.

■ It was Dr. Johnson who once observed "To those who have been much together, everything heard, and everything seen, recalls some pleasure communicated or some benefit conferred". And I cannot renew this happy and fraternal association without acknowledging with a full heart, the lasting pleasure communicated, and the inestimable benefit conferred upon me, by the fortunate circumstances which first brought me across the Atlantic many years ago. It has been my good fortune to come to you on so many occasions now that the immigration authorities are beginning to look upon me with a little suspicion. Those of you who are familiar with the great lines of Emma Lazarus engraved on the Statue of Liberty may recall that they conveyed a warm-hearted invitation to come to these shores to all those who were unfortunate enough to be poor. Coming from England at this time, I should have thought my qualifications in that respect, at least, were beyond any challenge; and I anticipated that I should easily pass

through what Emma Lazarus poetically called "The Open Door". But the immigration authorities, somehow, don't seem to know about Emma Lazarus. It does not appear to satisfy them when I state in writing that I am quite content with one wife, and that I have no intention of trying to embarrass either President Truman or Mr. Acheson. When they interrogate me, as they do, about the purpose of my visit, and I reply that my simple purpose is to bring a message of great good will from the Bench and Bar of England, their suspicions deepen visibly. The art of cross-examination is then seen at its best—acute, incisive, pungent and excessively unbelieving. When, under pressure, I deviate a little from the strict truth in my answers, I comfort myself with the observation made by Chief Justice Richardson a couple of centuries ago. When a disappointed litigant threw a book at his head as he was bending low over his desk, he straightened himself and said: "Now, had I been an upright judge I should have had it."

But, Mr. President, having survived that ordeal once more, I think that this joint meeting is perhaps the most memorable gathering in all the experience of the two Associations. One tiny fear still assails me. In the criminal courts of England, we are still governed by the Criminal Procedure Act of 1865 which allows a witness to be confronted with a statement made on a former occasion inconsistent with his present testimony. I have no particular fear of this, because on all my visits whether in war or peace, I have had virtually one theme only, and that was to say in one form or another that the best and surest hopes of all mankind lay in the closest alliance of our three great countries.

But there is some danger, perhaps, that I might say something tonight that I have said before either in America or Canada, and I have debated with myself whether I ought not to begin, as a young and brilliant friend of mine began a lecture the other night in London to a most distinguished audience by saying: "Ladies and Gentlemen, I have delivered this lecture once before. It was to the prisoners in His Majesty's prison at Pentonville. I must therefore apologize in advance if any of my hearers have heard me before."

History Is a Register
of Mankind's Follies

But, Mr. President, I feel I need make no apology tonight if I say

just one prefatory word on that theme of former addresses. When I first spoke at Indianapolis under the presidency of my good friend, Mr. Jacob Lashly, I like to recall that I spoke of the ties that bound us one to another—ties of blood, of language, law, and literature, and our unsleeping love of liberty—ties that have become immeasurably dearer since that night in the James Whitcomb Riley room, and are now sealed with the outpourings of our blood and treasure. It was Gibbon, of course, who said that "History is indeed little more than the register of the crimes, follies, and misfortunes of mankind".

The state of the world today gives a terrible and tragic force to it. All over the face of the earth there spread the dark and forbidding clouds of anxiety and apprehension. It is a great and an inspiring thing for an Englishman to come to this great country, conceived in liberty, to which all the nations who love that selfsame liberty turn in their distresses, and to this great gathering of American and Canadian lawyers. My own country, weakened and exhausted by the great exertions of war, will have reason to be grateful throughout its subsequent history for the understanding, the insight, the humanity, and the practical help so freely given by America, and by the loyal and magnificent support of Canada in every time of need.

Our purposes are the same; the ideals we cherish are the same; for in all our countries there is to be seen in the development of our institutions and particularly in the development of our law, sometimes confused and hesitating, but always there, the passionate attachment to freedom of speech and thought, based on the sure belief that only by such freedom can the mind of man itself develop and display its finest powers. In the year I spent at Nuremberg I saw with clear eyes the disaster which finally overcomes a great nation and a great people when the rule of law is disregarded and justice is set at naught. In the place of law, fear reigned; where

justice had been, tyranny reared its menacing head. The courts were mere registering instruments of a dictator's will. The judges were the tools of the executive. The secret police were a law unto themselves. There was no place for the fearless advocate, no place for the fair trial, no place for the semblance of justice.

We Must Dedicate Ourselves to Preservation of Liberty

It is altogether right and proper therefore that in these troubled days of ours, we should reflect for a moment or two in all our deliberations on the great blessings we are so apt to take for granted—the supremacy of law and the freedoms which spring therefrom, and to dedicate ourselves afresh to the work of seeing that they do not perish from the earth.

Now, Mr. President, I have thought that I could best serve the interests of your two Associations if I forbore to speak further on the state of the world and devoted myself to some considerations affecting the lawyer's life and work, that might serve as a relaxation and possibly be of interest and value.

Thirty-five years' experience of the Bench and Bar of England have confirmed me in the view that the profession of the law, despite all its detractors, is one of the most honorable and dignified and responsible callings to which a man can consecrate his life, and that the true exercise of the profession demands that such a man should be very much more than a mere man of law. I do not wish to be understood to mean that all lawyers should engage in what Lord Morley once called "the eager and tumultuary pursuits of the life political". As one of our more daring counsel in England once said to a judge who had refused the postponement of a case to a rather distant date on the ground that all the judges on the Bench might be dead by then, "My Lord, that would be too much to hope for."

Lawyers Must Have Wider Outlook than Law

Many lawyers, particularly in Amer-

ica and in Canada, do take commanding positions in public life and therefore bring luster and prestige to the profession, and it is well that this should be so; but what I am to commend to you is that the lawyer in fitting himself for the work of the profession and in its practice should aspire to the wider outlook, the loftier range than the study of the law, by itself, can ever give. One of the greatest of the American Chief Justices, John Marshall, was of the opinion that no lawyer is justly entitled to the honorable and conventional title of "learned", if his learning is confined to the statutes and the law reports.

John Marshall was a great man of law and the value of the opinion I have quoted derives from that very fact; but he was also a considerable man of letters. It was from that wider field that he drew the strength and the inspiration and the judgment that make him a great figure not only in this country, but wherever lawyers foregather. In the course of his professional life the lawyer finds that he is called upon to deal with almost every form of human activity; and every form of knowledge, therefore, is of immense value to him. Not infrequently he will find that into his hands have been confided all that his clients deem to be most precious—reputation, property, even life itself—and it will be his duty to defend those rights and liberties from whatever quarter they may be assailed.

In his address to the Stanford University Law School, Mr. Justice Jackson, whom I am very proud and honored to call my friend, recently gave it as his opinion that while the scholarship of the Bar had been improving, the art of advocacy had been declining. Having spent the best part of my life in the exercise of the art of advocacy I should view any such decline with the very greatest regret. When I was first beginning at the English Bar, Edward Carson was at the height of his power. With his rich Irish brogue and his command of pathos he could move an English jury almost to tears.

Indeed he could reduce himself to tears at times, and on one such occasion, Tim Healy, his opponent, himself exercising one of the weapons of the advocate, said to the jury, "When I see my learned friend in tears, I reflect that it is the greatest miracle that ever happened since Moses struck the rock in the wilderness." I was myself in the chambers of the great Marshall Hall and I shall always remember that tremendous scene in court, in a great and dramatic murder case, when, speaking to the jury of the irrevocable effect of their verdict, he quoted from *Othello*:

Put out the light, and then put out
the light;
If I quench thee, thou flaming minister
I can again thy former light restore
Should I repent me; but once put out
thy light
Thou cunning'st pattern of excelling
nature,
I know not where is that Promethean
heat
That can thy light relume.

There can be no doubt, I think, that the outward form of advocacy has undergone great changes, but I think it will always be one of the matters to which the profession would do well to give the closest attention. And if some of the younger members of the profession when reading the speeches of great advocates are apt to wonder wherein their power resided, it should be remembered what the younger Pitt once said when somebody expressed wonder at the enormous reputation of Charles James Fox: "Ah! But you have never been under the wand of the magician." The elements of advocacy are many—the advocate himself with his quick mind and understanding heart, his power of expression, his readiness and resource, his courage, the occasion with all its dramatic possibilities, the theme whether noble and lofty or tragic and pitiful, the form and manifestation of all these things—but my own view born out of a lengthening experience is that the most important element in advocacy is the man himself.



Sport & General

The Right Honorable Lord Justice Birkett, Lord Justice of Appeal, Royal Courts of Justice, England. Sir Norman became Lord Justice of Appeal a few days before his arrival for the recent Annual Meeting in Washington. This photograph was taken on October 2, when he appeared for the first time in his robes as Lord Justice of Appeal. The occasion was the traditional service at Westminster Abbey.

Nature and Quality of Lawyer Determine His Success

Knowledge of the law and assiduous training in its growing complexities is essential to any kind of success in the profession; but in the last resort everything depends upon the nature and quality of the man. The first Lord Rosebery, himself a great master of the written and spoken word, said of the oratory of Chatham:

Assiduous study of words, constant exercise in choice language so that it was habitual to him in conversation, and could not be other than elegant

in premeditated speech, this combined with poetical imagination, passion, a mordant wit, and great dramatic skill would seem to be the secrets of Chatham's oratorical supremacy. And yet it would be safe to say that a clever fellow who had mastered all these would produce but a pale reflection of the original. It is not merely the thing that is said *but the man who says it that counts*, the character that breathes through the sentences.

And James Russell Lowell, when speaking of the magic of Emerson, expressed the same view:

Those who heard him while their natures were yet plastic, and their

mental nerves trembled under the breath of divine air, will never cease to feel and to say:

"Was never eye did see that face
Was never ear did hear that tongue,
Was never mind did mind his grace
That ever thought the travail long;
But eyes and ears and every thought
Were with his sweet perfections caught."

It would be unreasonable to expect the same excessive care to be given to the art of advocacy in the present age as was bestowed upon it when the world was very much different. Both the Greeks and the Romans paid the very greatest attention to it. They ranked it with poetry, painting and sculpture in the pains taken to reach perfection. If advocacy can be taught, the ancient writers supply a complete code. Over eighteen centuries ago, Quintilian was discussing with amazing insight the qualities to be cultivated by the advocate in the exercise of his calling.

For example, it was he who pointed out the inestimable advantage of knowing your judges. He said: "For it will be desirable to enlist the temperaments of the judges in the service of our cause, where they are such as are likely to be useful, or to mollify them when they are likely to be adverse, just according as they are harsh, gentle, cheerful, grave, stern or easy-going." Could anything have been more tactfully expressed? The tradition that the advocate should try to laugh naturally or at least to smile appreciatively when the judge makes a joke, however feeble, is a survival of the teaching of Quintilian! Lord MacMillan, whose collection of essays *Law and Other Things* should be on every lawyer's bookshelves and to which I am so deeply indebted now and at all times, has developed this theme with his accustomed brilliance.

The Emphasis Has Changed in Our Day

But fashions change, manners change, all things change; and there has been a change in emphasis in our day. The spread of education, the astonishing development of journalism, the coming of the radio with its

own special technique for public speaking—all in some measure have contributed to the decline of which Mr. Justice Jackson spoke.

But how rich are the rewards for care and pains in the art of advocacy may be seen, for example, in the speeches of Mr. Churchill during the last war. For let nobody suppose that those speeches were made without immense preparation and the care that ever Demosthenes gave to his orations, for of him it was said "he adopts no thought at random, but takes much care of both the arrangements of his ideas and the graciousness of his language". In the speeches of Mr. Churchill were to be seen thought and character inextricably intertwined, the man himself, and all that his experience and training had made him. There was the unrivalled power of exposition, the gift of enthralling narrative, and there of course was the noble and adequate theme and the sincere and impassioned mind which produced the eloquence that nerved the arm and fortified the heart.

It is true that the advocate is not likely to tread so exalted a stage; but the advocate can at least take notice of the exceeding great rewards which attend the pains taken in the preparation of anything he has to say in court or elsewhere. Great advocacy, I contend, is in the last and supreme analysis, the product of what the man is who produces it, and the plea I therefore venture respectfully to make is that the lawyer when devoting his life to the law, indeed consecrating his life to the law, should enlarge the sweep of his mental vision so that nothing that is human, or that affects humanity, should be to him common or unclean.

Affinity Between Law and Letters Is Very Close

Now with this in mind, I would ask you for a moment to look with me at the relation of law to literature. If the advocate is to add to his purely legal equipment, the mighty weapon of the well-stored mind, knowledge of every kind can-

not be too highly commended, and for my own part I believe that from wide reading in the realm of books comes something not to be acquired elsewhere. The affinity between law and letters is really very close. In that moving and memorable conversation between Johnson and Jonathan Edwards, recorded by Boswell, Johnson said: "You are a lawyer, Mr. Edwards. Lawyers know life practically. A bookish man should always have them to converse with. They have what he wants." This famous and much-quoted passage conveys the impression that lawyers and bookish men are in some degree opposites; the lawyer concerned only or mainly with the mundane and practical affairs of the world, the bookish man immersed wholly or mainly in the world of ideas. The contrast is quite false and fantastic.

The association between books and lawyers has always been of the closest kind. It would not be too much to say that in the purely professional sphere of the law, or at the very least, in some portions of it, the work of the law is inextricably bound up with the world of books.

The lawyers of fiction who have become national characters are not perhaps very many, but Counsellor Pleydell in Scott's *Guy Mannering* is surely one of them. You will remember what he said when showing Colonel Mannering around his chambers in the High Street in Edinburgh. Pointing to the books on his shelves, described as the "best editions of the best authors" and in particular "an admirable collection of the classics", he said: "These are my tools of trade. A lawyer without history or literature is a mechanic, a mere working mason; if he possesses some knowledge of these he may venture to call himself an architect."

Lincoln Is Perfect Example of Lawyer as Literary Craftsman

But the great figure of Abraham Lincoln provides the perfect example of my theme. His place in his

(Continued on page 946)

Law and Literature

(Continued from page 894)

tory is now so great and so secure that we are apt to forget that Lincoln was in his beginnings an accomplished lawyer. It was from his lips that there came the noblest short speech in the history of the language. Ten sentences were spoken in five minutes but they will continue to reverberate in the world until the language dies. The simplicity of diction in that speech is perhaps the secret of all great oratory. But whence came this power of Lincoln's to express himself in simple and lucid English?

The popular view is that the great President uttered the Gettysburg speech in a moment of supreme inspiration after Mr. Everett, the orator of the day had spoken for nearly two hours; but the truth is that it was all written out and fashioned with the greatest care.

Lincoln, no doubt, had great natural gifts, but there can be no doubt that his habit of reading all his life gave to him that sense of style and that choice of words that have placed him among the immortals in this respect, too. We are told that as a boy he read everything that he could lay his hands on and some of the books were *Robinson Crusoe*, *Aesop's Fables*, *The Pilgrim's Progress*, the Authorized Version of the Bible, *Weem's Life of Washington*, Burns and Shakespeare, and (Heaven preserve us) the Revised Statutes of Indiana. If these statutes were anything like those we have at home, they were certainly a great contrast to *Robinson Crusoe* and I shall say a further word about them in a moment. But I want to interpolate here another word about the Gettysburg speech.

Four and a half months before he made it, he had spoken of the battle of Gettysburg and had referred to the founding of the Republic as taking place "eighty odd years since". In the Gettysburg speech so carefully phrased, the famous opening sentence you will remember was "Four score and seven years ago, our fathers brought forth

upon this continent a new nation conceived in liberty and dedicated to the proposition that all men are created equal".

Words in Right Order Have Magical Power

Now, words in their proper order are the raw material of the law, and words have a magic of their own; they have color and sound and meaning and associations. But choice words in the right order have a more magical power still. It was an English writer who said: "You take a few words, you put them together and in a way not explicable, they flash into life and you have not a sentence but a song, a revelation, a new creation, a joy for ever. The difference between "Great is Diana of the Ephesians" and "Diana of the Ephesians is great" is as wide as the difference between a revolution and a peaceful protest. "The Vision and the Faculty Divine" opens a window on the Infinite, but "Vision and the Divine Faculty" lets in no light upon us.

Lincoln was in possession of this secret and the contrast between "Four score and seven years ago" and "Eighty-odd years since" will not be lost on all those who wish to use language in its most acceptable and most attractive form.

I wish I had time to spend in a little detail upon Lincoln. Just let me add this and leave it. He was also, because of that reading, the author and composer of some of the wisest and pithiest and choicest sayings in the world. One only will I give you which I suppose is very familiar to you: "A woman is the only thing I am afraid of that I know will not hurt me."

Advocate Must Master Words If He Would Persuade

Now, then, the advocate, therefore, must have the faculty, innate or acquired of being able to use the right words in the right order, if he desires to be a master of the art of persuasion, and this could never come merely from reading the Revised Statutes of Indiana. The his-

torian, Clarendon, when speaking of Coventry, the Lord Keeper of Charles the First's day, said, "He had in the plain way of speaking and delivery without much ornament of elocution, a strange power of making himself believed—the only justifiable design of eloquence." This comes, I must insist, primarily from the man himself and from the form and content of his expression.

Now, because the lawyer finds words to be the raw material of his profession, he must find the words appropriate to the occasion. I spoke a few moments ago of the Revised Statutes of Indiana. For many purposes the law must avoid what I may call the literary use of words. It must be content to use language shorn of all color or ornament in order to gain clearness. No doubt it often fails of its purpose and the history of litigation in England is a continuing testimony to that failure. But on the occasions when these considerations are not paramount the law has many examples of noble English to show.

As an illustration, if you want to see language employed by the advocate in its simplicity and in its strength, let me quote to you what we regard in England as the finest opening by the counsel for the defense in a murder case ever known. It was by John Inglis, the Dean of Faculty, when he appeared in the great trial of Madeleine Smith.

Gentlemen, the charge against the prisoner is murder, and the punishment of murder is death, and that simple statement is sufficient to suggest to you the awful nature of the occasion which brings you and me face to face.

And in many of the judgments of English judges it may be truly said that law and literature came into their own.

Connection Between Law and Literature Is Long and Honorable

There has always been a long and honorable connection between law and literature. The books which lawyers have themselves written of the law and about the law are of course very many. I am glad to have

upon my shelves at home many such American and Canadian books. But it is of course the life of the law in England that I know best. Some legal books have become the possession of the world. Blackstone's *Commentaries on the Laws of England* first published in the years 1765 to 1769 was one of the great events in legal history, and marked the first beginnings of true legal education in England. Jeremy Bentham said that book first taught jurisprudence to speak the language of the scholar and the gentleman.

But quite apart from what may be called law books, the contribution of law to literature has been immense. I happen to be a Bencher of the Inner Temple, and whilst the former glories of the Inns of Court have in a large measure departed, some things abide throughout the centuries. Clarendon who wrote the history of *The Great Rebellion* was a member of the Middle Temple; Bacon with the *Essays* and the outpourings of that noble mind, is the glory of Gray's Inn; Sir Thomas More with his *Utopia* is the great son of Lincoln's Inn; and John Selden with his *Table Talk* belongs to the Inner Temple. Henry Fielding wrote *Tom Jones* in Pump Court; Cowper of the lovely Olney hymns came from the Middle Temple (we had one in the Cathedral on Sunday, though that was written by Newton) —Burke, Sheridan, De Quincey, Thomas More, R. D. Blackmore and *Lorna Doone*, Thackeray and a hundred others.

Dickens' Books Might Be Legal Texts

Charles Dickens was steeped in the

traditions of the law and some of his books might even be made textbooks. In the famous action of *Bardell v. Pickwick* you may remember that the presiding judge, Mr. Justice Stareleigh, always called Mr. Serjeant Buzfuz "Brother Buzfuz". This was because they both belonged to the ancient order of serjeants-at-law, and though serjeants-at-law are now abolished, if you walk into the Royal Courts of Justice in the Strand today you will hear the judges of the King's Bench Division still calling each other "Brother" as if the old order of serjeants-at-law still survived. Samuel Pepys had a very close connection with the Temple. In the famous diary for 1662 he records: "I walked an hour in the Temple Garden recording my vows which it is a great content to me to see how I am a changed man in all respects since I took them." And then he records the purchase of a very scandalous book from one whom he calls "my bookseller in the Temple", which book says he "is a mighty lewd book, but yet, not amiss for a sober man once to read over to inform himself of the villainy of the world".

It is not possible for us all to go to the great universities, to spend years in the study of history or the classics or literature generally; and yet we would fain aspire to the great rôle of the finished advocate. There have been many, denied the larger and more glorious opportunities, who have made themselves familiar with the cadences of the Authorized Version of the Bible, that unrivalled storehouse of majestic English, and some of the greater masterpieces of our literature who have found

therein a great enlargement of the faculties. The native energies of the mind have been thereby liberated, and all the perceptions immeasurably quickened. To live in books with the great and wise spirits of all time is somehow to feel their virtue and mysteriously to share it; and all these things to the advocate in the exercise of his art are beyond rubies.

Let me end with a renewal of my heartfelt thanks to your two Associations, and to express my fervent good wishes for the years to come. The greatest need of this unhappy world is a return to the universal rule of law, and the spread of universal justice among all the nations.

"Who shall put his finger on the work of Justice and say 'It is there'? Justice is like the Kingdom of God—it is not without us as a fact; it is within us as a great yearning."

From this statement of George Eliot your two Associations are never likely to dissent, and though the age of universal justice may seem at times far off, the ideal is at least discerned, and the life of every lawyer, however circumscribed his sphere may be, lived in the light of that great ideal not only brings honor to the profession but also brings the day of attainment nearer.

We cannot kindle when we will
The fire that in the heart resides
The spirit bloweth and is still
In mystery our soul abides:
But tasks in hours of insight willed

Can be through hours of gloom
fulfill'd.
With aching hands and bleeding feet
We dig and heap lay stone on stone;
Not till the hours of light return,
All we have built do we discern.

LINCOLN LORE

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LINCOLN'S MOST HUMILIATING LAW SUIT

Just one hundred years ago this month Abraham Lincoln experienced his most humiliating law suit. It was by no means "The Merrie Month of May" for him and it was one of the few instances when he found himself a defendant in litigation. He was doubly embarrassed because he felt the action was instigated by his brother-in-law, Levi O. Todd of Lexington, the oldest brother of his wife.

Another brother-in-law of Lincoln's, Ninian W. Edwards, was also made a defendant with Lincoln in the suit brought by Edward Oldham and Thomas Hemingway, surviving partners of Oldham, Todd & Company. Oldham and Hemingway in their petition claimed that Lincoln was indebted to them "in the sum of \$472.50 Dolls. for money collected for said firm and unaccounted for . . . Plaintiffs state their claims are for money collected by said Lincoln as their attorney and not paid over . . ." (The claim against Edwards was for the sum of \$9.00). Here was a direct challenge not only to Lincoln's personal integrity but also to his professional ethics and it is needless to say it stirred him deeply.

It was from his codefendant, Edwards, that Lincoln first learned of the charges brought when he was at Danville, Illinois attending court on May 26. On the following day Lincoln wrote to George B. Kinkead of Lexington, his legal representative, "I find it difficult to suppress my indignation towards those who have got up this claim against me," he informed Kinkead, and after instructing his lawyer about procedure concludes, "I am unwilling to trust the oath of any man, who either made or prompted the oath to the petition."

Lincoln completely vindicated himself in his answers to the plaintiff's petition and clearly proved by witnesses that he had never received any money to which they had any legal claim. With Lincoln's final answer before them, including testimony of witnesses, the plaintiffs filed a motion to dismiss the case assuming the burden of paying the costs. The suit was consummated on February 10, 1854.

The papers in the suit against Lincoln were discovered by one of our best informed Lincoln students, William H. Townsend of Lexington, who wisely followed through from this lead and in the attic of the old home of George B. Kinkead discovered the correspondence which Abraham Lincoln had with his lawyer concerning the proceedings. Mr. Townsend subsequently prepared an attractive brochure entitled "Abraham Lincoln, Defendant" which discusses the case in detail and exhibits the documents in facsimile.

Incidents which led up to the bringing of the suit started ten years earlier when Mary's father, Robert S. Todd visited Springfield where he then had living four married daughters. Possibly more important just then from his viewpoint, at least, was a new grandson named for him, Robert Todd Lincoln. We have the story of his visit as Lincoln related it in his answer to the petition brought against him.

"In the autumn of 1843 and after Respondent had intermarried with said Robert S. Todd's daughter, said Robert S. Todd visited Springfield, Illinois, when and where, Respondent, for the first time in his life met him. During that visit, said Todd remarked to this Respondent that there were two desperate or doubtful debts due Oldham, Todd & Co., one near Beardstown, Illinois, in charge of an attorney by the name of Henry E. Drummer. . . and that if anything could be collected

on said debts he desired Respondent to take and retain it as his own. Afterwards, and, as the Respondent remembers in 1846 said Drummer paid over to the Respondent the sum of fifty dollars, reporting that sum to be all beyond charges, that could be collected on said claim in his hands . . ."

Lincoln's father-in-law on this visit also volunteered to give his daughter Mary \$120 each year until her husband's financial status was improved. This he continued to do until the time of his death on July 16, 1849.

A few months after Robert S. Todd's death, a suit he had filed to recover the estate of his cousin, Mary Todd Russell, was again opened on behalf of the heirs of Robert S. Todd, which of course included Mr. and Mrs. Abraham Lincoln among the plaintiffs. In the interests of this suit the Lincolns went to Lexington, Kentucky, arriving there on October 28, three months after the senior Todd's death and remaining until November 6. During this visit the Lincolns were entertained in the home of Levi O. Todd. Lincoln states in one of his letters to Kinkead, "In the autumn of 1849 I was at Lexington several days, during which time I was almost constantly with L. O. Todd." Lincoln further comments in his answer to the Petitioners "that when he visited Lexington in the autumn of 1849, as he remembers, he stated this whole matter (Robert S. Todd's proposition about money Lincoln could collect on bad debts) to said Hemingway and to L. O. Todd; and that more recently in 1852, he again fully stated it, in his sworn answer to a Bill filed for the adjustment of the estate of said Robert S. Todd."

The immediate cause for the suit undoubtedly grew out of some ill feeling towards the Todd sisters and their husbands at Springfield which was generated at the time of the settlement of the estate of Robert S. Todd. Levi in 1852 joined his brother George R. C. Todd in voicing disapproval of his father's will which was attacked on a technicality. Lincoln implies in his correspondence with Kinkead that the influence exerted by Levi O. Todd was responsible for the legal action against him.

Six years after the suit was filed the wife of Levi O. Todd secured a divorce from her husband with these allegations noted: "He has a confirmed habit of drunkenness . . . cruel and inhuman manner . . . for some time past has made little or no provisions for the maintenance of his family." Not only was he divorced by his wife but he was also estranged from his step-mother.

Levi O. Todd although a supporter of John Bell in the campaign of 1860 was in sympathy with the Union. Correspondence in the Robert Lincoln Papers in the Library of Congress furnish an interesting sequel to the episode. On September 12, 1864 Levi wrote the President: "I hope to see you get the vote of Kentucky where you, Mary and myself hail from. I will do my best to effect it." He then asks Lincoln for a loan of \$150 or \$200 until Dec. 1 when he "will return it without fail" stating he was in "great need of things that are necessary for the winter."

Although the President was not a revengeful man the past actions of Levi could not have contributed much to his appeal for a loan. The President was severely criticized by members of the Todd family for his failure to come to the financial assistance of the man who back in the month of May 1853 was indirectly responsible for "Abraham Lincoln's Most Humiliating Law Suit."

Lincoln's Genius Had A Universal Appeal

If this world ever becomes, in truth, one world, united in the arts of peace, under a world federation; and a statue is set up in the public square of the world's capital, as a symbol of a living democratic faith, that statue may well depict the tall, gaunt figure and homely features of Abraham Lincoln. No man ever expressed the essence of democracy in more memorable words. No man, having reached the highest office in the gift of his fellow citizens ever dedicated himself with a firmer devotion to the principles of democratic government—that form of government whose leading principle (in Lincoln's own words) "is to elevate the condition of men; to lift artificial weights from all shoulders; to clear the paths of laudable pursuit for all; to afford all an unfettered start and a fair chance in the race of life."

The riddle of Lincoln's greatness is the riddle of genius. Though this riddle cannot be solved there is no mystery about the instrument which gave direction to his genius and enabled him to draw such generous dividends from his talent. That instrument was the law. Had Lincoln not embraced the profession of the bar, for all his latent ability, his name would now not be written so large in the history of this country. . . .

LITTLE SCHOOLING

Lincoln went to five different schools — three in Indiana and two in Kentucky. Altogether he had less than a year's schooling. The schools he attended were "blab schools" where all lessons were done out loud, because of the scarcity of writing materials. He never lost the habit of reading aloud as he wrote, thus submitting his words to the verdict of two senses.

Lincoln was born with an insatiable appetite for reading, an appetite nourished by his mother, and after her death when he was ten years old, by his stepmother, Sarah Bush Johnston. Books were not plentiful in a small backwoods community. Few came into Lincoln's eager hands, but those few were chewed and digested. Carl Sandburg said that Lincoln read all books within a 50-mile circuit of his home. "The things I want to know are in books," he used to say. "My best friend is the one who'll get me a book I ain't read."

A THOROUGH READER

For all his love of reading, Lincoln never became a widely read man. He knew but few books, though he knew them intimately. His library never contained more than a hundred volumes, excluding his law books. It has been said of him that few men in his position had ever read less widely or thought more deeply. In a letter to General Hunter, President Lincoln wrote, "he who does some-

The universal genius of Abraham Lincoln makes both a general and a specific appeal. The historian, for instance, appreciates Lincoln's awareness of history; the soldier, his brilliance as a military tactician; the scholar, his genius in the use of language; the politician, his ability to handle people; the school-boy, the aura of anecdote, both real and apocryphal, which has grown up about his name.

All these, of course, are in addition to the universal admiration of Lincoln's wisdom, his wit, his humility, and his humanity during our nation's greatest internal crisis.

Lincoln, a lawyer by profession, has always been venerated by the legal profession. How a member of the bar, and a Canadian at that, regards Lincoln may be seen in the following excerpts from an article entitled "Lawyer Lincoln — A Canadian Estimate," which was published in the Connecticut Bar Journal under the editorship of David H. Jacobs of this city. The article is by Roy St. George Stubbs, a well known lawyer of Winnipeg, Canada.

thing at the head of one Regiment, will eclipse him who does nothing at the head of a hundred." He who does something with a few volumes, as Lincoln did, will eclipse him who does nothing with a library full of books. Lincoln made all that he read a part of himself. "My mind is like a piece of steel," he once said, "very hard to scratch anything on it, and almost impossible after you get it there to rub it out."

Lincoln's debt to the King James Bible is apparent on almost every page of his writings. His debt to Aesop is only less apparent than his debt to the Bible. No public man was ever so full of wise saws and modern instances. None had such a happy talent for illustration.

TYPICAL ANECDOTE

When Lincoln first took office as President, his party had been in the wilderness for many years. The spoilsmen of the party promptly descended upon him like a swarm of locusts. He was buttonholed by office seekers even in the corridors between his bedroom and his office. "One day some twenty place-hunters had taken possession of the President's office, 'with bales of credentials and self-recommendations ten miles long.'"

He devised a tale, worthy of Aesop, to confound them. One time minding a mud scow in a bayou near the Yazoo, Lincoln drawled, he read a story of a certain king who called the Court Minister, said he wanted to go hunting, and asked the Minister if it would rain. The Minister told him the

weather would be fair, it would not rain, and he could go hunting. The royal party on the way met a farmer riding a jackass. He told the king to turn back as it was going to rain. The king laughed, went on, and no sooner got started hunting than a heavy down-pour of rain drenched him and his party to their royal skins. The king went back to the palace, threw out the Minister, and called for the farmer.

"Tell me how you knew it would rain."

"I did not know, Your Majesty, it's not me, it's my jackass. He puts his ears forward when it's going to be wet, and back when it's going to be dry weather."

The king sent the farmer away, had the jackass brought and put in the place of the Minister.

"It was here," said Lincoln, "tho king made a great mistake."

"How so?" asked some of his audience.

"Why, ever since that time, every jackass wants an office!"

ALWAYS THE ADVOCATE

As a lawyer, Lincoln did not subscribe to the proposition, my client right or wrong, but still my client. He was always the advocate, never the partisan. . . . Though he had no enthusiasm for a case when he thought his client was morally wrong, he never looked for easy victory or shirked an uphill fight. Let him but think

client was in the right, and the more difficult the case, the more fully were his great powers brought into activity.

There were found among Lincoln's papers at the time of his death some notes for a lecture that he had intended to give to an audience of lawyers. These notes are a confession of his professional faith.

LEARNED FROM FAILURE

"I am not an accomplished lawyer," wrote Lincoln. "I find quite as much material for a lecture in those points wherein I have failed as those in which I have been moderately successful. The leading rule for the lawyer, as for the man of every other calling, is diligence. Leave nothing for tomorrow which can be done today.

Never let your correspondence fall behind. Whatever piece of business you have in hand, before stopping, do all the labor pertaining to it which can then be done...

"Extemporaneous speaking should be practised and cultivated. It is the lawyer's avenue to the public. However able and faithful he may be in other respects, people are slow to bring him business if he cannot make a speech. And yet there is not a more fatal error to young lawyers than relying too much on speech-making. If any one, upon his rare powers of speaking, shall claim an exemption from the drudgery of the law, his case is a failure in advance.

"DISCOURAGE LITIGATION"

"Discourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser — in fees, expenses, and waste of time. As a peacemaker the lawyer has a superior opportunity of being a good man. There will still be business enough. . . .

"There is a vague popular belief that lawyers are necessarily dishonest. I say vague, because when we consider to what extent confidence and honors are reposed in and conferred upon lawyers by the people, it appears improbable that their impression of dishonesty is very distinct and vivid. et the impression is common, almost universal. Let no young man choosing the law for a calling for a moment yield to the popular belief — resolve to be honest at all events; and if in your own judgment you cannot be an honest lawyer, resolve to be honest without being a lawyer. Choose some other occupation, rather than one in the choosing of which you do, in advance, consent to be a knave."

PROUD OF STRENGTH

Lincoln was proud of his great strength and his great height. Even during his last years, when the burdens of office lay upon him, he never missed an opportunity to display his muscular prowess. Just before his election as Presi-

dent, he tried to toss cannon balls at a State Fair with a man who made his livelihood by that strenuous pursuit. His pride was touched because he could not handle the cannon balls with the ease of the professional. But it was some compensation to him that he towered above the other man. "You can outloft me," he said, "but I could lick salt off the top of your hat."

LINCOLN ON POLITICAL PARTIES

In a characteristic letter Lincoln once drew attention to the fact that the Democratic Party of his day had retreated from the principles of its founder: "I remember," he wrote, "being once much amused at seeing two partially intoxicated men engaged in a fight with their great-coats on, which fight, after a long and rather harmless contest, ended in each having fought himself out of his own coat and into that of the other. If the two leading parties of this day are really identical with the two in the days of Jefferson and Adams, they have performed the same feat as the two drunken men."

Truly the whirligig of politics brings in many changes. Abraham Lincoln, the Republican, was the true political heir of Thomas Jefferson, the Democrat; and his own political heir was another Democrat — Franklin D. Roosevelt.

HISTORY'S APPRAISAL

Truly, Abraham Lincoln belongs, not to his own times, nor to the country that gave him birth, but to the ages. His influence has been felt wherever the writ of civilization runs. Speaking to an American audience, Lord Tweedsmuir said, and surely no praise can reach greater height: "In the noble merchantry of civilization let us remember that if we of England have given Shakespeare to American, you have paid us back with Lincoln."

Abraham Lincoln lived only long enough to see his work to the end. In Mr. Woldman's apt phrase, "he had cleared the title to the deed of democracy." But he could not guarantee that title for later generations. The enemies of democracy never concede defeat but in every generation seek to encumber the title deed of democracy. In these challenging times — one hundred and forty-four years after Lincoln's birth in a log cabin in Kentucky, and eighty-eight years after his death in Washington as President of the United States — when concerted attempts are being made to cloud the title deed by enemies, both from within and from without, his achievements, as man and as statesman, demonstrating as they do that democracy is not always (as Dean Inge suggested) the process of

choosing the second best, renew our faith and strengthen our resolve that "government of the people, by the people, for the people, shall not perish from the earth."

2-12-54

Lincoln a Methodical Barrister

Slow and Careful, Attorney Says

Urbana, Ill., Feb. 13 [Special] — Aspects of Abraham Lincoln's conduct as a lawyer were described here today by Willard L. King a Chicago, lawyer, principal speaker at the 44th annual Lincoln program of the Zeta Psi fraternity. The program was held in the Illini Union.

In research for a biography of Judge David Davis, with whom Lincoln rode the circuit thruout central Illinois in the middle of the last century, King found many accounts of Lincoln's courtroom practices and his method of trying cases.

Moved Slowly, Carefully

"With all his extraordinary capacities, Lincoln had a pedes-

trian mind—he moved slowly and carefully," King told his audience. "He acted only on his sober, second thoughts. In no calling does the delayed reaction become as important as in the law. In no profession is a quick mind, unchecked, a greater handicap.

"Another sidelight on Lincoln, the lawyer, was his meticulousness. His early years as a surveyor had made him careful to the 'nth degree. He prepared his pleadings with scrupulous accuracy as tho he was making a survey of an irregular piece of land. His distinctive copper plate handwriting appears on hundreds of these documents."

King said that Lincoln had great resourcefulness, "of which the best example is the familiar one of his producing the almanac to refute the witness who testified he had seen a murder by bright moonlight."

Played with Words

"Another lawyer like quality of Lincoln was his facile speech. He realized that the main problem of the lawyer is communication. He liked to play with words. His ordinary routine letters contain no cliches, no hackneyed phrases; they are clearly but unusually phrased. He had a passion for clarity combined with a beautiful sense of rhythm in language.

"Another eminent quality was his conscientiousness. He was a poor lawyer in a case in which he did not believe. He had superb detachment. He always questioned his own judgments, particularly when they had an emotional basis.

For a man to have sound judgment he must be able to say to himself, 'Maybe I am wrong. I wonder if I am.' Out of court Lincoln was abstracted—buried in his own thoughts. Herndon [William H. Herndon, Lincoln's law partner] said: 'He thought more than any man I have ever known.'"

How Chicago Influenced The Career Of Lin

By Jack McPhaul

In imagination one can see a plaque on the building at the northeast corner of Lake and Clark. It would read: "Abraham Lincoln practiced law here."

The plaque does not exist, because Lincoln declined an offer to join a Chicago law firm. If he had accepted it's possible that on the nation's calendar next Saturday would be just Feb. 12, and not the 146th birthday of the 16th President of the United States.

As is true of all men, the rail-splitter from Illinois had to be in the right place at the right time to share in the events that sent him on the journey to immortality.

It could so easily have been different. Pioneer Chicago lawyers figured in at least two in-



GRANT
GOODRICH



ABRAHAM
LINCOLN

cidents which, had they gone the other way, might have removed Lincoln from the stream of history.

Traveled The Circuit

In 1848 Grant Goodrich, who had begun the practice of law here in 1834, urged Lincoln to become his partner in offices at Clark and Lake. The then Whig representative in Congress from Sangamon County declined the offer, saying he

feared he would be tied to a desk.

Lincoln preferred to "travel the circuit." Legal documents in his stovepipe hat, long legs astride his gray horse, "Old Bob," he followed genial, big (300 pounds) Judge David Davis of the 8th Judicial Circuit. In 14 counties of central and eastern Illinois the destined Chief Executive tried cases ranging from cow theft to disputes over a railroad's right-of-way.

In court he won the respect of his colleagues, and nights in rude lodgings he amused them with his jokes and pranks. Many of the lawyer friends he made on the circuit, Judge Davis among them, helped him win the Republican presidential nomination in Chicago in 1860.

A Dinner Guest

Chicago lawyers who were his friends included Norman

B. Judd and Jonathan Young Scammon, who had offices in the Saloon Building, southeast corner of Clark and Lake. During the 1850s he was a dinner guest at the homes of other Chicago attorneys, among them being Isaac N. Arnold, who lived at Erie and Rush, and Ebenezer Peck, whose home was at Clark and Fullerton.

In 1849 a defeat at the hands of another Chicago lawyer, Justin Butterfield, kept Lincoln on the track that was to lead ultimately to the White House. He asked President Zachary Taylor for appointment as commissioner of the General Land Office.

Butterfield, however, proved more adroit in pulling political strings and won the post. Had Lincoln triumphed he would have spent probably four years in the Interior Department in Washington. As matters worked out, he spent those four years increasing his Illinois stature, a process that made him a rival of U.S. Sen. Stephen A. Douglas and produced the Lincoln-Douglas debates which first made the future Emancipator a national personage.

Lawyer's Lawyer

Lincoln, who had only one year of formal schooling, was a self-taught lawyer. The law books he read were borrowed. Yet he became a 'lawyers' lawyer.' Other attorneys chose him to carry appeals to high courts.

In 1849 he represented the City of Chicago in the U.S. Supreme Court. He lost the decision to the federal government. At issue was the right of the city to open streets through federal property. On several occasions he tried cases in the U.S. District Court for northern Illinois, Dearborn and Monroe.

Lincoln had to go to court to collect a \$5,000 fee from the Illinois Central R.R. A vice president thought that no "country lawyer" deserved such a fee. The rail executive was George B. McClellan. Four years later McClellan became commander of the Army of the Potomac by appointment of President Abraham Lincoln.

'Long-Armed Ape'

Lincoln and Edwin M. Stanton represented Cyrus H. McCormick of reaper fame in a patent suit. Stanton snubbed the Illinois lawyer and privately sneered at him as a "long-armed ape." Lincoln made Stanton his secretary of war, and in 1865 Stanton turned away from

[line of text
missing]

mur: "Now he belongs to the ages."

Lincoln's first court appearance was as a defendant at the age of 18. He was using a scow he had built to deliver passengers to steamers that halted midstream in the Ohio River. Contending that he was infringing on their license, owners of a ferry service haled him before a justice of the peace.

Up to that time the raw-boned 6-foot-4-inch stripling had not read a lawbook. But he had read the terms of his opponents' license. Their exclusive rights were confined to the transporting of passengers across the river. Young Abe pointed out that he took his passengers only halfway. Justice Samuel Pate ruled in his favor.

Talent For Imagery

Early in his legal career he showed his talent for imagery, so vividly evident afterward in his presidential messages.

He defended a young unmarried mother in a suit against a man who had denied her charge that he was the father of her child. Lincoln likened a man's character to a piece of white cloth. A stain could be washed away. But a woman's character, he pleaded, was like a glass vase. Once shattered it could never be made whole again.

As a veteran of the bar he advised young lawyers: "Discourage litigation. Persuade your neighbors to compromise whenever you can. As a peacemaker the lawyer has a superior opportunity of being a good man. There will still be business enough."

In the funeral procession at Springfield in 1865 mourners saw, riderless and wearing a blanket of roses, "Old Bob," the gray horse which had carried Abraham Lincoln down the muddy roads of Illinois as he traveled the circuit.

OFFICE OF
ALLEN SMITH
(Clerk of the Circuit Court)
AND EX OFFICIO RECORDER
OF MENARD COUNTY
PETERSBURG, ILLINOIS

August 13th., 1957

Mr. George A. Seipp
% American Bindery & Supply Co.,
312 Plymouth Avenue North
Minneapolis 11, Minnesota

Dear George:

Sometime ago you gave me one of your business cards on which the caption reads, "We Are Proud". Your firm can be justly proud to have bound books for dignitaries, such as President Eisenhower, Pope Pius XII, Emperor Haile Selassie, The Kings of Sweden, Norway and Denmark and the many others mentioned on your card.

We, the Officers and Board of Commissioners of Menard County, are "Proud" too. Proud of the fact that Menard County is one county in the State of Illinois that believes in keeping its records in good repair at all times. This has been done by your able assistance and know how.

As you well know, Petersburg is in the heart of the Lincoln Country. Lincoln was not only County Surveyor, but practiced Law in Petersburg for several years. During the time he practiced law here, there were many documents, books, maps, etc., that were handled by Lincoln. Some of these you have repaired for us the past several times you have come to Petersburg to recondition our records. You have often expressed the great satisfaction and pleasure you experience in repairing these Lincoln records, being a student of Lincoln.

One of the records you have just finished reconditioning is our Court Docket #1 which began in 1839 and ran through 1853. This docket contains Peoples Cases, Appearances, Chancery references, Continuances, Common Law cases and Criminal cases. The entries in this docket show that Lincoln participated in over one hundred of these cases, sometimes as attorney for the Plaintiff and at other times as attorney for the Defendant. You also know that attorneys check their personal records with those contained in the Court Dockets and there is no doubt about the fact that Abraham Lincoln handled this docket many times.

While this Court Docket may not be used to any great extent today or in the future for checking cases, we believe that it is one of the most personal pieces of Lincolniana extant, he having handled it so many times. We, therefore, value it very highly and are pleased to have entrusted it to your personal care for its complete repair.

Posterity no doubt will look back at our endeavor to keep the records of Menard County in such repair, that they too can be "Proud" that we of today, thought of them.

Yours very truly,



Allen Smith

Clerk of the Circuit Court,
Menard County, Illinois.

Lincoln Was A Lawyer's Lawyer, Historian Tells City Club Session

A picture of Abraham Lincoln as "a lawyer's lawyer" was painted Monday by a lawyer-historian who is conducting research into the period when Lincoln practiced in Illinois.

Willard L. King, attorney and author, told the weekly luncheon of the City Club of Chicago at 19 S. La Salle that despite the appearance of recent works on Lincoln as a lawyer, King feels the area has been generally neglected.

He was critical of some recent works as "rehashes" of earlier ones. He called for further original research into the small-town weekly newspapers and the court records that told of Lincoln's practice.

Works on Biography

King, an attorney at 135 S. La Salle, predicted that "in the next thousand years, a Lincoln 'industry' will arise comparable to the Shakespearean 'industry' in England, so that no visitor to the United States will be able to forgo a visit to Springfield."

King's presentation was an evaluation he hopes to expand into a book on Lincoln's legal career. During the last seven years, King has been working on a biography of Judge David

Davis of McLean County, the judge with whom Lincoln rode the circuit and who was his closest friend. He later appointed Davis to the U.S. Supreme Court.

King said he was appalled at the vast number of cases Lincoln tried, and the labor he poured into them. Yet, he observed, "There were lawyers who had more cases, there were those who won more cases, but Lincoln was a lawyer's lawyer."

Had Few Equals

Judge Davis, he said, once summed up the opinion of Lincoln held by judges when he wrote: "In all the elements that constitute the great lawyer, he had few equals."

Many of his cases, particularly those going to the Supreme Court, came from other lawyers throughout the state, King said.

One of the surprises King's research disclosed was the pre-eminence with which Lincoln was regarded in 1850 in many communities, 10 years before he was nominated for the presidency.

Great Resourcefulness

Besides the qualities of industry, extreme care and integrity, which King said are usually suf-

ficient to insure success in the law, Lincoln possessed "more extraordinary capacities."

These, he said, included great resourcefulness, particularly his aptitude for illustration in the vernacular people could understand; facile speech, evidenced by "a passion for clarity combined with an accurate sense of rhythm in language"; conscientiousness, wit and humor, and generosity of judgment, as displayed by "his infinite charity."

"With all his extraordinary capacities," King declared, "Lincoln had a pedestrian mind—he moved slowly and carefully. He acted only on his sober, second thoughts."

"His early years as a surveyor made him careful to the 'nth degree.'"

The prairie railsplitter also had "in an eminent degree," King said, "what Justice Oliver Wendell Holmes called 'the instinct for the jugular.' He saw the vulnerable spot in an adversary's case and went directly at it."

He carried into the White House his detachment and practice of thinking things through for himself, without resort to counsel that was frequently divided, King said.

'LIKE LINCOLN'

CHICAGO.—Augustine Bowe's review of, "Attorney for the Damned" was an able one.

If Clarence Darrow was merely another talented lawyer who was slick at manipulating the hearts and minds of judges and juries in behalf of clients, for the usual fat fees, he would not be cherished as he is.

Like Lincoln, he had simple tastes and manners. Both were essentially humble, and neither was a stuffed shirt. They were kindly, philosophical men with pity and sympathy. They felt a warm bond with those who suffered or were weak or insecure. "There, but for the grace of God, go I" was ever implicit in their outlook on life. They erred, at times, but these were the errors of honest souls.

Lawyer Lincoln and Lawyer Darrow—both of Illinois—were peaks who towered above the hate, greed, cynicism, cowardice, and ignorance about them. Time will forever keep their memories fresh in its Hall of Character.

S. G. HERMAN

Between Book Ends How Lincoln Viewed Emancipation

LINCOLN AS A LAWYER, by John P. Frank (Illinois University Press, 190 pgs., \$4.75).

This is the second book in two years devoted to the profession which occupied more of Lincoln's adult life than all his other activities together. John J. Duff, in "A. Lincoln, Prairie Lawyer," did a fine and appreciative job of collecting the details of Lincoln's practice. Now John P. Frank considers how the law contributed to Lincoln's cast of mind. He first surveys Lincoln's practice, then analyzes the records to see what habits of thinking can be identified. Finally, he searches Lincoln's political career for instances where the same habits of thinking seem to have operated.

Most impressive and suggestive is his analysis of Lincoln as President. In general, he concludes, while the law did not form Lincoln, it did furnish him the intellectual tools that enabled him, in many instances, to work effectively. It gave him a "modus operandi," a method of working, which contributed

not only to the sharpness of his decisions, but also to his peace of mind, his confidence in his decisions once made.

The Emancipation Proclamation is a case in point. It is well known that Lincoln first proposed, with the utmost legal caution, to consider the slaves as property and buy their freedom. When this proved impossible and it was clear that the slaves would have to be freed by fiat, still Lincoln hesitated, for nearly five months, partly waiting for the politic moment, but partly also waiting until he had found legal grounds which would satisfy him.

These grounds were the confiscatory powers of a military commander in time of war. Lincoln stated them unequivocally in the proclamation itself, and he defended himself on these grounds afterwards. Moreover, since emancipation thus rested only on military necessity, Lincoln could not rest comfortable until the Thirteenth Amendment made the action permanently legal. He devoted all of his

political talents to getting that done at the earliest possible moment.

Lawyer Frank's analysis of Lincoln's political thinking is subtle and perceptive, and magnificently clear and revealing.
R. E. Haswell

MIRROR OF WAR, The Washington Star Reports the Civil War, compiled and edited by John W. Stepp and I. William Hill. (Prentice Hall, 378 pgs., \$12.50.)

In the spate of printing about the Civil War, a variety of books have appeared, ranging from distinction to rubbish. This addition to the flood, consisting of contemporary newspaper stories from the Washington Star, deserves a place of some honor near the head of the table. Its editors, staff members of the Washington Star, have selected both historic and human interest stories from the Civil War files of their paper. They have used discrimination, accompanying the reports with brief and helpful editorial notes. Their product is in a handsome format.



River steamer, had run against the pier of the Rock Island Bridge and had been destroyed. Lincoln ably defended the right to build such bridges, and the court's decision removed a serious obstacle to the building of transcontinental railroads.

The *Effie Alton* case was tried in 1857, the year before Lincoln, running for the Senate, participated in the famous series of debates with Stephen A.



Douglas. In 1858, busy as he was with politics and high-level legal work, he still had time to heed a call from out of his past. "Duff" Armstrong, the son of

friends from his New Salem days, February, 1857, the year of murder, and Lincoln offered to help defend him. In this case, often used as the basis for stories and plays about Lincoln, he discredited the prosecution's star witness by proving, with the aid of an almanac, that there was insufficient moonlight for the witness to have seen what he described in great detail. For his efforts, Lincoln would not accept a fee from Duff's widowed mother.

On his last afternoon in Springfield before entraining for Washington and the presidency, Lincoln told his law partner: "Give our clients to understand that the election of a President makes no change in the firm of Lincoln & Herndon. If I live I'm coming back some time, and then we'll go right on practicing law as if nothing had ever happened."

ON THE COVER: This statuette of Lincoln "The Circuit Rider" by Fred M. Torrey is located at Lincoln's tomb in Springfield, Illinois.



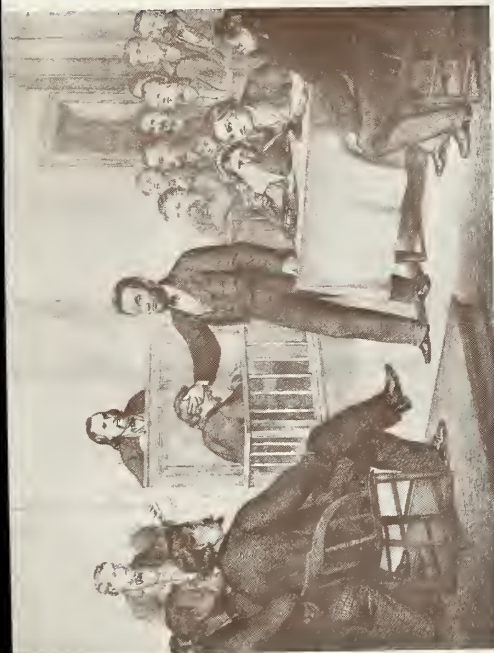
Lincoln the
Lawyer

LINCOLN NATIONAL
LIFE INSURANCE COMPANY

From 1837 until he went to Washington early in 1861, Abraham Lincoln was a practicing lawyer. His interest in the law was not undivided because he frequently was absorbed in politics, but he made a good living for his family and became widely recognized as one of the ablest pleaders in Illinois.

Lincoln was 27 years old when he received his law license. For a man who had enjoyed only a few terms in pioneer schools and had worked with his hands throughout his early life, the intellectual accomplishment of successfully studying for a legal career was noteworthy. Four years earlier when he returned from serving as a captain in the Black Hawk War, Lincoln had "thought of learning the blacksmith trade—thought of trying to study law—rather thought he could not succeed at that without a better education." It was two years later that he took positive steps toward becoming a lawyer. When he was campaigning for election to the legislature in 1834, he was persuaded to take up the study by Major John T. Stuart, another candidate of the Whig Party. Here is the way Lincoln himself described his law education for a campaign biography written many years later:

"After the election he borrowed books of Stuart, took them home with him, and went at it in good earnest. He studied with nobody. He still mixed in the surveying to pay board and clothing bills. When the legislature met, the lawbooks were dropped, but were taken up



This artist's impression of Lincoln pleading the celebrated Armstrong case of 1858 is erroneous in showing Lincoln wearing a beard, which he did not start to grow until after his election in 1860. Duff Armstrong and his widowed mother, sentimentally portrayed, are seated at the table, right.

again at the end of the session." It took two years of hard study before he got his license in 1836, and it was April 15, 1837, when he left New Salem to become Stuart's law partner in Springfield. In 1841 he became the partner of Judge Stephen T. Logan, and in 1844 he formed his final partnership with William H. Herndon.

The practice of law in Lincoln's time required a great deal of traveling. Although Springfield was the state capital, the courts there were in session only part of the year. An ambitious lawyer had to spend many days "on the circuit" traveling to other counties

for terms of court. The roads were sometimes bad, and lawyers had to travel in all kinds of weather. But apparently there were many compensations. In discussing a law career with his son Robert many years later, Lincoln said, "If you become a lawyer you will probably make more money at it than I ever did, but you won't have half the fun."

The "fun" consisted of the good fellowship with other lawyers, ample opportunities for trading wit, and the challenge of besting his friendly rivals in open court. Almost certainly the enjoyment also stemmed from the opportunity to indulge in politics at the same time.

Already embarked on a political career before he studied law, Lincoln continued to serve in the legislature until 1841. He was an active campaigner for the Whig presidential candidates in 1840 and 1844, and in 1846 he was elected to the House of Representatives for a two-year term. He did not seek re-election and devoted the next five years almost exclusively to his law practice. In 1854, the repeal of the Missouri Compromise triggered his return to politics, and he began the sequence of speeches and candidacies which led to the White House.

By the 1850s, he had become a prominent lawyer for the railroads. Perhaps his most important case was his defense in a suit testing the right to put a bridge over a navigable body of water. The *Effie Afton*, a Mississippi

ABRAHAM LINCOLN, ATTORNEY

Henry B. McFarland, Esq.
New Jersey Law Journal
February 12, 1981

Abraham Lincoln, Attorney

by Hon. Henry B. McFarland,
J.D.C. (retired)

A frontier judge and jury sat solemnly listening to a civil suit for assault and battery. The litigants were two young men and the damages were not too severe. Defense counsel was cross-examining the plaintiff. If the plaintiff had been as good with his fists as he was with his mouth there would have been no case. His answers were so confident and positive that the lawyer seemed a little futile. Finally, the lawyer asked a question that seemed to leave an opening, and the witness jumped at the chance to give the jury a laugh at the lawyer's expense. The question, "On what ground did you fight?" Answer, "On about an acre and one half." As the jury and even the judge started to chuckle at the snappy reply, there was another quick question. "Wasn't that a mighty poor crop of fight to raise on such a big piece of ground?" Judge, jury and spectators erupted in unrestrained laughter. The case was literally laughed out of court. Even those of you who have not heard the story recognize the style as that of Abraham Lincoln.*

*[Author's note: two books, one by Wolman and one by Duff, sparked my interest in Lincoln's career as a lawyer. This story is in neither of them, which is just as well because there has been too much stress on Lincoln's humor and too little on his competence and success as a practicing attorney. See "Lawyer Lincoln," Wolman, Albert A., Houghton Mifflin Co., New York, (1936); and "A. Lincoln, Prairie Lawyer," Duff,

To Lincoln law was a late career. True, he was only twenty-eight years old when admitted to the bar in 1837. But this was a time when you would give your eighteen-year-old son some seed and a team of oxen and he would start his own farm, or even push farther west. Lincoln's experience made up for his weakness in formal schooling. Before he was admitted to the bar, he had been a riverman, twice travelling to New Orleans. He had served as a volunteer in the Black Hawk War. He had been a store owner and postmaster in New Salem, deputy and county surveyor and was twice elected to the State Assembly. In the General Assembly he was more than a mere member. He was one of the leaders of those who successfully had the state capital moved to Springfield.

As was very common at the time of his admission to the bar, Lincoln did not graduate from law school. Like thousands of others, Lincoln read law in a lawyer's office. This man, John T. Stuart, was an outstanding lawyer. His library was one of the best in the state capital. When Lincoln finished his preparation and was admitted to the bar, Stuart thought so highly of his fu-

John J., Rinehart & Co., Inc., New York, (1960).

My interest in Lincoln spans decades. Much of what is written here comes from official reports and other texts but I would be very unfair if I did not acknowledge my debt to both these authors. For an understanding of what I cannot fully cover, I recommend these books to all who read this article.]

ture as a lawyer that he invited him to become a full partner.

Much has been written of Lincoln's thirst for knowledge. That he would walk thirty miles to borrow or return a book. He would do the same to hear a lawyer address a jury. When the court was in session, it was an informal town holiday. Most people found time to attend at least a few sessions. Lincoln showed unusual interest. He was seldom absent when a court could be visited. Since they picked jurors from those present, he sat as a juror many times. All of this undoubtedly was of great benefit to him in the practice of law.

Almost every author has his own theory of what attracted Lincoln to the law as a career. Safest would be to recognize his interest in people and justice; remember law is a profession whose fundamental purpose is to achieve justice for all.

Faced with speculation such as that he found a copy of Black-

stone's Commentaries at the bottom of a barrel of household goods which he bought for fifty cents, I have no hesitancy in giving the credit to two brothers, John and Lin Dill. They ran a ferry across the river from Indiana to Kentucky. Lincoln, a big raw-boned frontier youth, built a flat boat and for a few coins would bring passengers to passing steamers. The brothers had a state monopoly. They objected to Lincoln's endeavors. To stop him, they enticed him ashore in Kentucky and brought him before the local justice of the peace, Squire Pate, charging him with violation of the law because he disregarded their monopoly. Lincoln pleaded ignorance of the law. Of course, this was no defense. But there was a defense. Lincoln had not carried passengers across the river; he merely carried them to

midstream where they embarked on ships. Monopolies must be strictly construed. A nice principal of law, and the justice of the peace recognized it. He found Lincoln not guilty. Lincoln was impressed with the proceedings; seldom would he be absent from the justice of the peace's court when it was in session.¹

Stuart was more than a partner to Lincoln. He had encouraged him in his interest in the law, and they had served together in the Black Hawk War and in the Assembly. They were highly respected and successful. When Lincoln married in 1842, his wife, Mary Todd, was a cousin of Stuart. His share of the partnership earned Lincoln \$1,200 to \$1,500 a year. You have to remember that the Governor's salary was \$1,200 and that of a circuit court judge \$750 at the time. So Lincoln was quite prosperous. Their partnership would have continued, except Stuart was elected, then re-elected, to Congress.

Lincoln was left on his own and wished to associate with a more experienced lawyer. He found that lawyer in former Judge Stephen Logan. Their financial arrangements were not as generous to Lincoln, who received only one-third of the firm's fees. But more important, Judge Logan was a very meticulous worker. He supervised every step of a case. Lincoln received invaluable instruction and training, but he was too experienced and talented a lawyer to be held long in such a relationship. He and Logan dissolved their partnership. One of the practical considerations was that Logan wished to associate with his son.

Lincoln's third partnership lasted to the day of his death. He formed an equal partnership with William Herndon, newly admitted to the bar, younger than Lincoln, and a strong abolitionist. At this stage in his career Lincoln could

have chosen his partner from hundreds, but he found in this young man what he desired. They shared fees equally, but Lincoln was undoubtedly the senior partner. Lincoln rode the circuit and Herndon conducted the office.

When Lincoln was practicing, nothing prevented a lawyer from advertising his availability to prospective clients. Lincoln and Stuart announced their partnership in the public press. On circuit, Lincoln made arrangements with local lawyers. These associations were frequently advertised in the local press, probably by the local associate.

When I first became aware of Lincoln's practice of advertising, it was absolutely forbidden for lawyers today to advertise. Times change. Today, lawyers may again advertise. Remember our rules of ethics must keep pace with the times. Lincoln followed the general custom of his times.

Lincoln was criticized in setting fees. Even for those times he charged too little. This could have been a practice he picked up from his first partner. Stuart always had difficulty asking for a reasonable fee. Maybe this practice started because they were in public life. There is a story of a mock trial of Lincoln for charging fees that were too small. This sounds like frontier horseplay, rather than hard feelings on the part of his fellow attorneys.

Lincoln's largest fee was \$5,000, which he split with his partner Herndon. Times change, clients don't. The client, a railroad, refused to pay the fee demanded. Lincoln and Herndon had to go to court to collect. They were given a judgment, which was paid. There is nothing lawyers hate more than

suing clients for fees. We do not know Herndon's reaction but he was an excitable, tempestuous type. He tells us of Lincoln's reaction as they divided the fee: undoubtedly pleased and amused, Lincoln said, "Billy, we should thank God for permitting the railroad to fall into our hands."

The railroad had been Lincoln's client for a very long time. It is unknown whether the controversy concerning the amount of the fee ever created a real difference between Lincoln and his client. Whether it did or not, they continued referring cases to Lincoln. The basic legal problem concerning the railroad was contested in many states. Undoubtedly the fees of other attorneys were equal to or more than Lincoln's.

The case is interesting aside from the fee dispute. The basic question was one of constitutional law. The railroad had a provision in its state charter exempting its property from local taxes. The County of McLean contended that such a provision was unconstitutional. They were well represented. The firms of both of Lincoln's former partners, S. T. Logan and John Stuart, appeared for the county! Lincoln lost on the trial level, but succeeded in his appeal to the Supreme Court of Illinois.²

If the contentions of the county had been upheld, every city and county through which the railroad passed would have had the right to tax the railroad. There is no doubt of the seriousness of the suit. The power to tax is the power to destroy.

Whether Lincoln's fees were large or small, the volume of his practice was unbelievable. This railroad case was published in 1855. Ten years before, in 1845, he had left his partnership with Judge Logan and was associated with the newly admitted Herndon. In one volume, 7 Illinois Report, Lincoln had six published cases. As lawyers, you will sympathize and feel

1. "Abraham Lincoln: The Prairie Years," Sandburg, Carl, Harcourt, Brace & Co., New York (1926).

2. McLean County v. Illinois Central R.R. (Supreme Court of Ill. 1855) 17 Ill. 291.

closer to him when I tell you he lost four of the cases.

Losses or not, he was in great demand as an attorney. An old friend, Armstrong, was troubled in his last illness. His son was arrested and charged with murder. He begged his wife to sell the farm and hire old Abe to represent his son. When approached by the widow, Lincoln insisted on working without fee. He had had contests with the father in wrestling, and was friendly with the rough gang that the father led. This was not a difficult case. The boy admitted he fought with the deceased shortly before he died. The key question was whether the boy used any weapon. A witness claimed that he saw the boy from a distance, and that he used a sling shot, which is a sort of black jack. Lincoln cross-examined the witness on his ability to see at night. The witness swore the moon was high in the sky. Using an almanac, Lincoln proved that the moon had not risen at the time of the fight. This destroyed the witness' credibility and Lincoln's client was acquitted.

Probably in those rough times, a boy of better reputation or from a better family would not even have been brought to trial. Nevertheless, controversy was inevitable as another young man had been convicted of acting in concert with Armstrong's son. What was most important to Lincoln's case was that he had applied for and received a change of venue for his client. This gave time for public sentiment to die down, and shielded the son from an unfriendly community, which knew him as a brawler. Lincoln's conduct in this case certainly shows professional competence.

I'm sure you will agree that lawyers feel every criminal defendant is entitled to competent representation. Often, however, it seems the public feels that lawyers who undertake criminal cases are less a credit to the bar than those whose practices are limited to civil matters. In the rough days when Illinois was a frontier state, Lincoln represented many accused of mur-

convince today's public of the innocence of all Lincoln's clients, when Lincoln at times failed to convince the frontier juries of his clients' innocence!

Lincoln's partner, Herndon, was a violent abolitionist. Lincoln was not, but all his life he opposed slavery and especially the extension of slavery. Even as an Assemblyman, he and a colleague issued a joint statement saying in part "The institution of slavery is founded on both injustice and bad policy." He took many positive steps to limit and resolve the slavery question; ultimately as President, he did resolve it. So no one has to apologize for his conduct on the issue of slavery. Attorneys defend clients charged with robbery, rape, and even murder. That does not mean they sympathize with or even countenance those evils.

During Lincoln's time, the seamiest part of the practice of law was cases involving slavery. Those who do not understand the duty of lawyers to appear in even unpopular causes probably would feel that statement should be limited to those representing slave owners. Once I tell you of Lincoln's cases on slavery, you will understand why I do not limit my statement.

A black woman named Polly came to Lincoln for legal advice and help. She told the following story. She and her children were born slaves in Kentucky. Her owner, a man named Hinkle, had brought the family to Illinois. Unable to hold them in bondage in a free state, he set them free. Shortly thereafter her son found work as a waiter and deckhand on a

steamboat that sailed down the Mississippi. While the boat was docked at New Orleans the young man went ashore. That night he was arrested and jailed for violation of a law which prohibited any colored person from being at large after dark without a pass from his owner. By the time he was brought to trial and ordered to pay a fine, his boat had sailed and he was left stranded without funds.

Herndon and Lincoln appealed to the Governors of both Illinois and Louisiana and engaged a New Orleans counsel to represent the boy. Finally, aided by contributions from friends, they paid the boy's fine and the expenses of the case so that the boy could come home to Illinois.

When anyone mentions slavery, we think of the slavery of blacks. But many other races were so anxious to reach America that they signed away their freedom and came as indentured servants. Their position was better in one important aspect. Their servitude was for a period of time, and there was always hope. The law therefore tolerated contracts of indenture.

A man named Cromwell claimed that Nance, a black girl, was an indentured servant and he sold her services to a man named Bailey. Part of the consideration was a note. Finding herself in a free state Nance went on her way. Lincoln defended against collection of the note. Probably because of the claim of indenture, Lincoln had to appeal to the Supreme Court of Illinois. In a beautiful opinion that court held the sale was illegal consideration and voided the note.³ Judge Logan, Lincoln's old partner, opposed him. I never heard criticism of Logan, but, of course, no lawyer should be criticized for presenting his client's contentions to the court.

3. *Bailey v. Cromwell* (Supreme Court of Ill. 1841) 4 Ill. 71.

I certainly don't criticize Lincoln for the last case that I shall mention on slavery, but it has caused much criticism of Lincoln, who seems almost immune from criticism.

Lincoln's client, Robert Matson, was a property owner in Illinois and a plantation and slave owner in Kentucky. It was at that time, 1847, very legal and even respectable to own slaves in Kentucky. I would not apply the adjective "respectable," to Matson, however, because he had brought from Kentucky a white woman who was both his mistress and housekeeper. To develop the Illinois property, Matson mainly used slaves brought for a short period, who worked the fields, especially during harvest. The only exception was Anthony Bryant, a slave who remained from year to year and acted as overseer and foreman. Bryant had learned to write and became a lay preacher.

Matson's theory was that slaves brought for only a short period of time were in transit and did not become free. He was not concerned with Bryant, who was a man of importance in the plantation organization. In the spring of 1847, Bryant's wife Jane, a mulatto, and her four children arrived. They were scheduled to remain only until the end of Harvest.

Obviously, Jane worked in the house, not the fields, for she quarreled with the mistress who threatened to break up the family, selling Jane and her children south to the cotton fields. There is extreme doubt that this threat could have been executed. Jane had undoubtedly been born on the Kentucky plantation and was reputed to be Matson's brother's child. Could we speculate that Jane brought with her some of the ill feeling toward the housekeeper that certainly existed, at least among the women on the Kentucky plantation. Other than to mention that Matson was later convicted of living in open

lewdness with his housekeeper, I shall not mention the lady again. Whether inspired by fear or an awakening of courage, the whole Bryant family fled and was arrested and placed in an Illinois jail. Matson filed a suit of habeas corpus to have the Bryants returned to him and he retained Abraham Lincoln.

The decision went against Lincoln's client and the Bryants were transported to Liberia. They did not prosper there. Less than a year later, they were asking for funds to come back to the United States because they were living in the most extreme poverty. Funds were not forthcoming. Abolitionist actions did not always benefit the slaves. The Bryants had exchanged plantation slavery for the slavery of poverty. The very institution of slavery tainted our society.

Lincoln was an early and consistent opponent of slavery, and especially the spread of slavery. Why then did he accept such a client? Because slavery was very much a part of the law. Among those who owned slaves in Kentucky were his wife's parents. He had friends in Kentucky who referred him cases. He represented them in their legal problems. But their interests did not stop the Emancipation Proclamation. Even though the Dred Scot decision favored the position taken by his client, Lincoln did not hesitate to violently criticize it.⁴ This criticism started the Lincoln - Douglas debates.

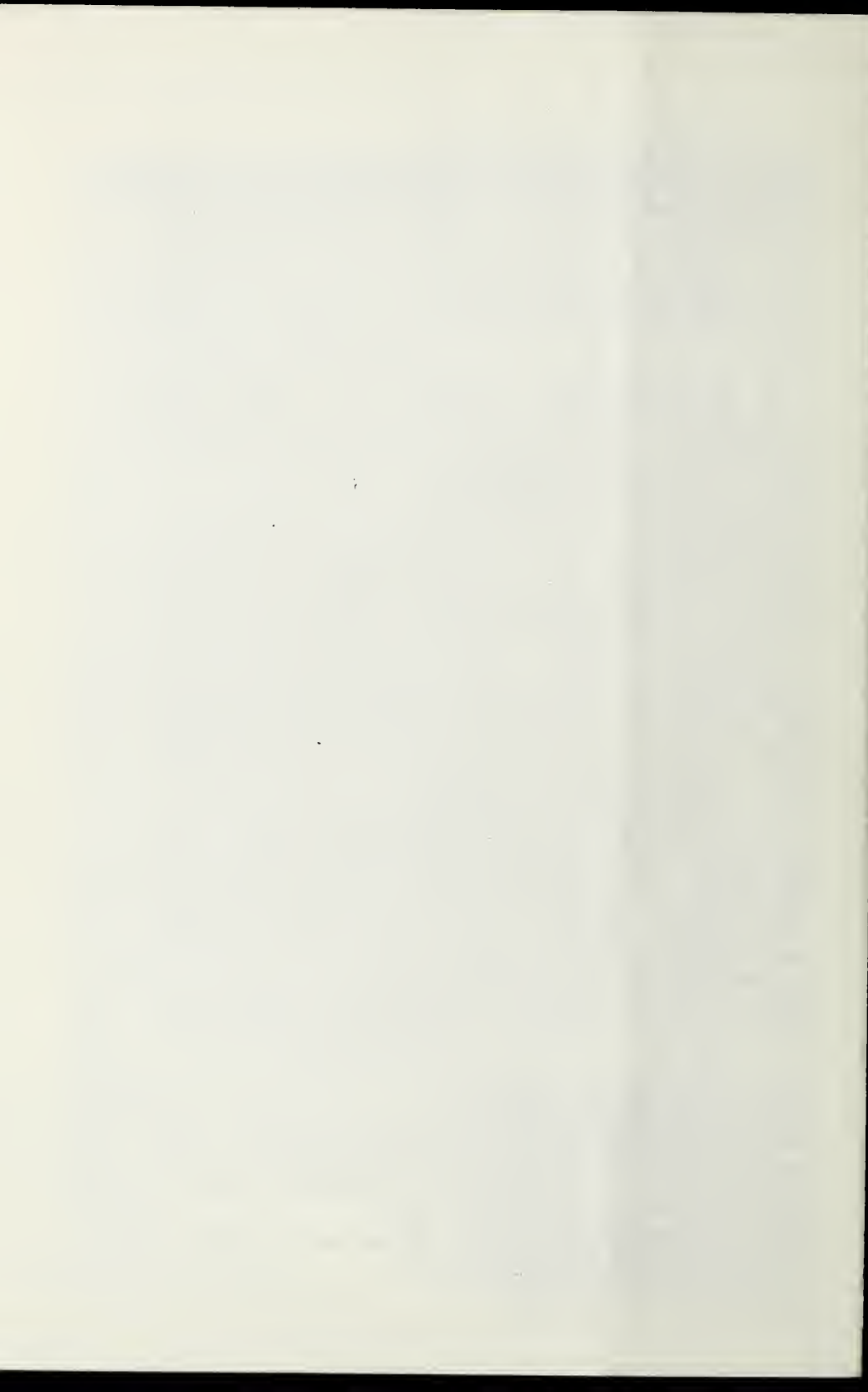
These cases give a picture of Lincoln as a practicing lawyer. Warm and sympathetic to the problem of Polly and her son, he undertook her case without hope of compensation. Rather than stressing the shock and evil of one person selling another, he kept to, and won on the law, the case involving a note that was part of the purchase price for Nance. As every practicing lawyer must at times, he took an unpopular case in that of Matson.

His ability and success is not in question in these cases. That ability shows most clearly in the Rock Island Bridge case with which I shall conclude this article. This was strictly a civil case. In May 1856, a steamer, the Effie Afton, struck one of the piers of a railroad bridge. As a result of the collision the ship burned and was completely destroyed. The owners alleged that the railroad had no right to build a pier in the river; that the pier was a nuisance per se; and that they were entitled to damages, regardless of negligence by the railroad.

To prepare his case, Lincoln visited the bridge. He prepared and presented expert testimony from the engineer who built the bridge about the necessity of the pier, and from river pilots about currents. The case developed into a classic battle of experts in which Lincoln was at his best. Moreover, the right to place the pier in the river was reduced to a simple contention: the pier was needed and people had as much right to cross the river as to go up and down it.

Lincoln won his case. As practicing lawyers we win and we lose, but this case is one that will convince you that when next someone mentions Lincoln, they are speaking of a practicing attorney who is a credit to our profession and of whom we can be proud.

4. Dred Scot v. Sanford 60 U.S. 393, 19 How. 393 (1857).



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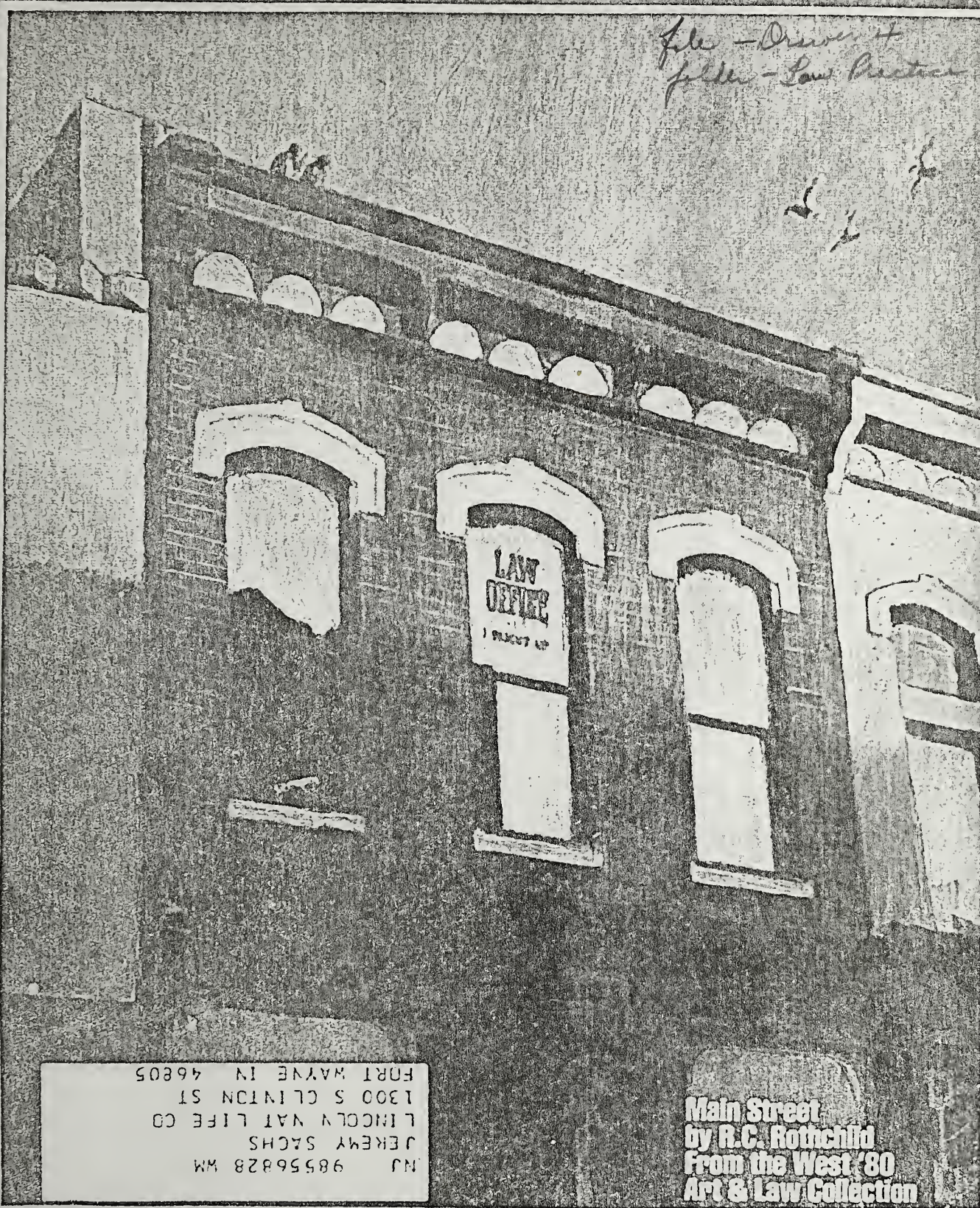
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President Lincoln as a Constitutional Lawyer



His constitutional theories ultimately were confirmed
by the United States Supreme Court.

By Bernard Schwartz

EVEN Karl Marx recognized that "the figure of Lincoln is 'sui generis' in the annals of history." To lawyers in particular, Lincoln has remained a virtual patron saint. The Lincoln of legal legend has become part of the profession's folklore—the gaunt backwoods figure riding circuit along trails on horseback, with saddlebags containing a spare coat, a clean shirt, a lawbook or two, and some paper. William Herndon, Lincoln's last law partner, later said, "No human being would now endure what we used to do on the circuit. I have slept with 20 men in the same room . . . and oh—such victuals."

As is often the case, however, the legend does not present a complete picture. Far from being a country bumpkin in court, the mature Lincoln was a leader at the bar, whom Stephen B. Oates, a recent biographer, has characterized as "'a very talented, and competent' appellate attorney, 'a lawyer's lawyer' with a passion for preparation." By the 1850s the firm of Lincoln and Herndon had a third of all cases in the Sangamon County Circuit Court and, according to the famous Lincoln biographer Carl Sandburg, "rated as a leading law firm in a city of 6,000 having an exceptionally able set of attorneys." Before his elevation to the presidency, Lincoln had participated in 243 cases before the Supreme Court of Illinois and two before the Supreme Court of the United States.

With this background, it was inevitable that the quondam prairie lawyer would bring to the presidency the perspective, techniques, and expertise of the experienced jurist. Lincoln in the White House never lost the habit of thinking and expressing himself as a lawyer; indeed, Marx wrote that his "most awesome decrees . . . resemble the . . . summonses which one lawyer sends to an opposing lawyer."

According to Bruce Catton, "The Civil War is the thing that makes America different. It was our most tremendous experience." The crucible through which the nation passed was also a continuing constitutional crisis. It presented constant legal problems to the lawyer who occupied the Oval Office. How did President Lincoln deal

with these constitutional problems? How should he be rated as a constitutional lawyer?

In answer to the second question, he must be given high marks as a constitutional lawyer. The reasons become apparent from the answers to the first question.

The most important constitutional issue that confronted Lincoln on his assumption of the presidency was that of the legal position of the southern states and their relationship to the Union from which they had attempted to secede. Lincoln categorically rejected the compact theory of the Constitution, on which the legal justifications for secession were based. He spurned the "sophism . . . that any state of the Union may, consistently with the national Constitution, and therefore *lawfully*, and *peacefully*, withdraw from the Union." To Lincoln, "the position that secession is consistent with the Constitution—is *lawful and peaceful*" was constitutional heresy.

From a legal point of view, the Civil War may be seen as an attempt to overthrow the nationalistic concept of the Constitution that had prevailed since Marshall became chief justice in 1801. Lincoln was a firm adherent of the Marshall concept. As he put it in his first inaugural, "in contemplation . . . of the Constitution, the Union of these states is perpetual. . . . It follows that no state, upon its own mere motion, can lawfully get out of the Union." Both Appomattox and the Supreme Court confirmed the Marshall-Lincoln theory, but those confirmations were made possible only by Lincoln's "doing the acts necessary to restoring the proper practical relations between these states and the Union."

The first of these acts were the military measures required to deal with the fall of Fort Sumter. Acting under a statute of 1795, Lincoln called 75,000 of the militia into federal service. This action was clearly within the powers given the president by the Constitution and laws, although President Buchanan had been of the view that he did not have that power. Of more doubtful legality was Lincoln's next step of securing military personnel—his call for more than 42,000 volunteers. He recognized that he might not have the

authority to increase the armed forces without congressional authorization, but he stated that his action, "whether strictly legal or not," was required by "public necessity; trusting . . . that Congress would readily ratify them."

Lincoln's constitutional theory was ultimately confirmed by the Supreme Court. Congress speedily ratified the president's action increasing the armed forces. On August 6, 1861, it passed a law providing that all of his acts respecting the army and navy and the calling out of the militia or volunteers taken after March 4 "are hereby approved and in all respects legalized and made valid . . . as if they had been issued and done under the previous express authority and direction of the Congress." That ratification, the Court held in *United States v. Hosmer*, 9 Wall. 432 (1870), gave full legal effect to Lincoln's action, just as if it had been authorized in advance by statute. Since, as Lincoln put it, "nothing has been done beyond the constitutional competency of Congress," the congressional ratification made it possible to bypass the issue of the power of the president to act solely on his own authority.

Another of Lincoln's measures—his April, 1861, proclamation of a blockade of southern ports—gave rise to the most important case decided during the Civil War. The formal proclamation of a blockade soon after Sumter was a tactical error, since in international law a blockade implies a state of belligerency. When the United States criticized Britain's neutrality proclamation of May, 1861, as "precipitate," the British foreign secretary was able to reply, "It was, on the contrary, your own government which, in assuming the belligerent right of blockade, recognized the southern states as belligerents." Lincoln admitted that the blockade proclamation may have been mistaken as a tacit acknowledgment of southern independence. He candidly conceded to Thaddeus Stevens, "I see the point now, but I don't know anything about the law of nations, and I thought it was all right."

But if the blockade proclamation was an indication of ignorance of international law, it was based on its author's practical knowledge of American constitutional law. The Supreme Court ex-

pressly upheld the president's authority to issue the proclamation in the *Prize Cases*, 2 Black 635 (1862), despite the fact that the proclamation itself constituted the legal beginning of the Civil War. A 1951 commentary by Clinton Rossiter asserts that the *Prize Cases* were as important as a case can be in shaping the contours of presidential power for future occasions when presidents would wage war without congressional authorization. The Court's decision upheld Lincoln's rejection of the doctrine that only Congress could stamp a hostile situation with the character of war and thereby authorize the legal consequences that ensue from a state of war.

Throughout his tenure in the White House, Lincoln demonstrated keen understanding of the constitutional primacy of the president over the executive branch and the military. Those who, like Seward and Chase, thought that they would dominate the government from cabinet positions — each, wrote Gideon Welles in his famous diary, had “a passion to be thought a master spirit in the administration” — sorely misjudged both the true personality of the president and the constitutional reality. The latter is well illustrated by the story, perhaps apocryphal, told of Lincoln's submission of the draft of the Emancipation Proclamation to his cabinet. After the entire cabinet voted against issuing the proclamation, Lincoln is said to have stated the result

as follows: “Seven against; one for. The ayes have it.”

Lincoln also acted on the constitutional assumption that Article II, in making him commander-in-chief, vested him with more than a ceremonial title. Throughout the war he assumed that he was endowed with the powers of supreme commander. He used his paramount position to interfere directly in military matters. His basic approach was that, however inexpert he might be in

military affairs, the Constitution had made him commander-in-chief and that it was his duty to exercise the role of over-all chief of the military effort.

Historians have differed sharply over Lincoln's control of military decisions. Some look on his constant interferences as a virtual plague to the Union Army, while others believe that his grasp of strategy did more than, as Randall and Donald contend, “any general to win the war for the Union.” What is beyond dispute is that Lincoln did act as a virtual generalissimo of the Union armies, never hesitating, when he saw fit, to overrule the decisions made by commanders in the field. Lincoln's actions set the precedent for presidential primacy in the conduct of war. Under the Constitution the president has the responsibility to resolve the key questions of war policy. He may, as Franklin Roosevelt did, map the strategy of global conflict from the White House; he may even, as Wilson did, place American forces under foreign command. It was President Truman himself who made the final decision to drop the atomic bomb on Japan.

It was as commander-in-chief that Lincoln issued what Karl Marx termed “the most significant document in American history since the founding of the Union.” The Emancipation Proclamation declared that it was issued “by virtue of the power in me vested as commander-in-chief of the Army and Navy . . . and as a fit and necessary war measure,” and he later conceded that “the . . . proclamation has no constitutional or legal justification, except as a military measure.”



The president's powers as a military commander include belligerent rights derived from the usages of war as well as the authority to govern occupied territory. A military occupier, the Supreme Court affirmed in *New Orleans v. The Steamship Company*, 20 Wall. 387 (1874), a case growing out of the military government established in conquered New Orleans, "may do anything necessary to strengthen itself and weaken the enemy." The power to free the enemy's slaves, like the power to take over his other property, is included within the power of military occupation.

The power to emancipate also may flow from the military power to requisition property, a power expressly recognized by the Supreme Court in *United States v. Russel*, 13 Wall. 623 (1871). Lincoln said: "The most that can be said, if so much, is, that slaves are property. Is there—has there ever been—any question that by the law of war, property, both of enemies and friends, may be taken when needed? And is it not needed whenever taking it, helps us, or hurts the enemy?" As Richard Henry Dana, Jr., expressed it in an 1865 address, "that an army may free the slaves of an enemy is a settled right of law."

Legally speaking, the Emancipation Proclamation was effective only as a war measure. "If any man," said Dana, "fears or hopes that the proclamation did as a matter of law by its own force, alter the legal status of one slave . . . he builds his fears or hopes on sand. It is a military act and not a decree of a legislator." That decree came with the ratifi-

cation on January 31, 1865, of the 13th Amendment, which Lincoln termed that "king's cure" for the evil of slavery. It consigned the question of the legality of the proclamation to the realm of academic controversy.

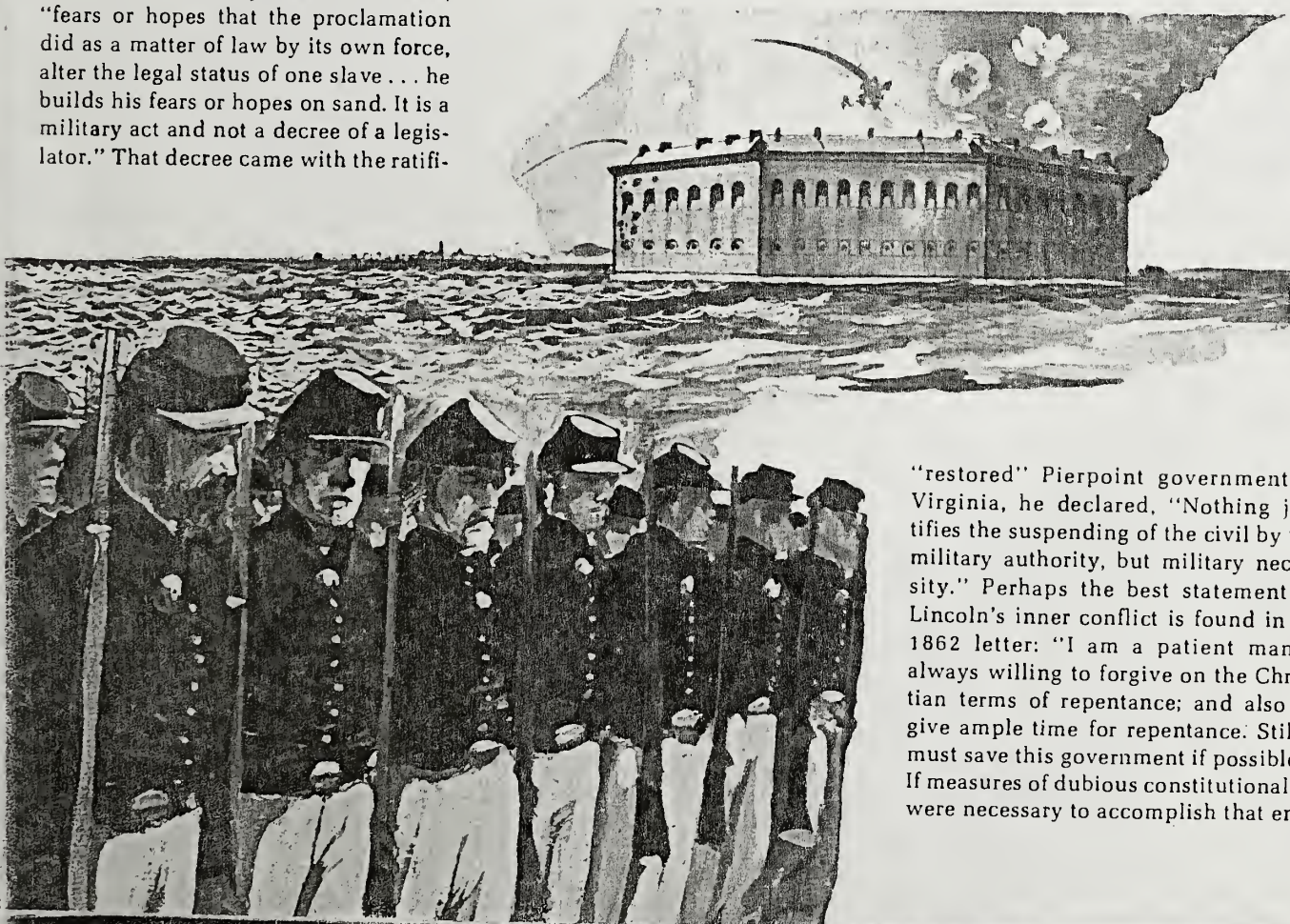
So President Lincoln was a constitutional lawyer of the first rank. The legality of his actions, although hotly disputed at the time, was confirmed by Congress, the Supreme Court, or subsequent practice. It must, however, be conceded that his conduct also had its dark constitutional side. For more than a century there has been sharp controversy over Lincoln's acts curbing civil liberties. The courageous action of Chief Justice Taney in the *Merryman* case (17 Fed. Cas. 144)—the aged jurist, with the fires of war kindling around him, serene and unafraid, interposing the law in defense of the liberty of the individual against presidential prerogative—has also become a part of legal folklore.

Certainly Lincoln had an expansive view of presidential power in wartime, but it was the life-and-death crisis facing the nation after Sumter that led him to assume unprecedented powers. "By general law," Lincoln asserted, at the height of what must still be considered our greatest national emergency, "life and limb must be protected, yet often a

limb must be amputated to save a life; but a life is never wisely given to save a limb." In assessing this philosophy, we should recognize the difficult choices that confronted him when strong measures seemed the only alternative to disintegration and defeat.

In a famous statement he posed the "grave question whether any government, not too strong for the liberties of its people, can be strong enough to maintain its own existence, in great emergencies." If the war were lost, government, country, and Constitution itself would all fall together: "I felt that measures, otherwise unconstitutional, might become lawful, by becoming indispensable to the preservation of the Constitution, through the preservation of the nation."

Throughout his presidency, Lincoln expressed his distaste for extraconstitutional measures. At the very outset of the conflict he told Gen. Winfield Scott "how disagreeable it is to me to do a thing arbitrarily." He developed this theme in both public and private utterances. When he was informed of military arrests of civilians in the District of Columbia, he wrote, "Unless the necessity for these arbitrary arrests is manifest and urgent, I prefer they should cease," and to Benjamin Butler, at the height of that officer's conflict with the



"restored" Pierpoint government of Virginia, he declared, "Nothing justifies the suspending of the civil by the military authority, but military necessity." Perhaps the best statement of Lincoln's inner conflict is found in an 1862 letter: "I am a patient man—always willing to forgive on the Christian terms of repentance; and also to give ample time for repentance. Still I must save this government if possible." If measures of dubious constitutionality were necessary to accomplish that end,

LEFT: When the 13th Amendment was ratified in 1865, Lincoln termed it the "king's cure" for the evil of slavery. BELOW: Clement Vallandigham is arrested for "treason" by General Burnside. Lincoln regretted this action. LOWER LEFT: Lincoln's order to blockade southern ports led to the most important case decided during the Civil War, shaping the future for presidents who wage war without authorization of Congress.



that was a card that had to be played to prevent losing the game.

Lincoln's approach to the war power rests on the theory that the Constitution in time of war is not to be regarded in exactly the same manner as in time of peace. "Certain proceedings," he stated in an 1863 letter, "are constitutional when in cases of rebellion or invasion, the public safety requires them, which would not be constitutional when, in absence of rebellion or invasion, the public safety does not require them—in other words. . . . The Constitution is not in its application in all respects the same, in cases of rebellion or invasion involving the public safety, as it is in times of profound peace and public security." In time of war, in other words, the basic document becomes, in Chief Justice Hughes's famous phrase, a fighting Constitution.

This approach does not mean that the Constitution and the guaranteed rights of individuals may be overridden in wartime at the pleasure of the executive, but it may justify actions that could not be permitted in more normal times. From this point of view, most of Lincoln's emergency measures can be reconciled with the proper working of our constitutional law. The difficulty arises with regard to what he termed his "supposed unconstitutional action such as the making of military arrests." On his own authority Lincoln suspended the writ of habeas corpus and ordered wholesale arrests without warrants, detentions without trials, and imprisonments without judicial convictions.

By today's standards most of these acts were without constitutional authority. It was settled by *Ex parte Milligan*, 4 Wall. 2 (1866), that military jurisdiction may not be exercised over civilians in this country except in "the locality of actual war" where "the courts are [not] open and in the proper and unobstructed exercise of their jurisdiction," and even in time of war the Constitution does not permit military jurisdiction over civilians on the mere *ipse dixit* of the executive.

Certain things should be said, however, if not in justification, at least in explanation. The line of demarcation between military and civil authority was more blurred a century ago than it is now. When Lincoln declared in 1863 that "The Constitution invests its commander-in-chief, with the law of war, in time of war," he was uttering what today would be considered constitutional heresy, but to the jurist of his

time the constitutional separation between military and civil power was by no means well delineated.

With the law thus unsettled, it is not surprising that the Constitution was at times "stretched" at the expense of individual rights. Most of the arbitrary measures in individual cases were acts of subordinates, not of the president himself. In the notorious case of Clement Vallandigham, it was General Burnside who acted arbitrarily. In justifying the arrest of Vallandigham, he asserted that incendiary speeches "create dissensions and discord which, just now, amounts to treason" and indicated further that those who distributed demoralizing speeches should be "hung if found guilty."

But this was not Lincoln's view. As Gideon Welles's diary notes, "Good men . . . find it difficult to defend these acts. They are Burnside's unprompted . . . by any member of the administration." He added that the president "regrets what has been done." Lincoln indicated that he was surprised and distressed when he first learned of the facts in Vallandigham's case. Over and over, the president had to caution and rebuke military commanders who went to extremes in overriding basic rights.

The important thing to remember, after all, is that Lincoln's elastic conception of the Constitution did not cause the American people to lose their liberties. Dunning's noted characterization, a generation after the event, of Lincoln as a temporary dictator was wide of the mark insofar as the president's personal temperament was concerned. His dislike of arbitrary rule, his reasonableness in practice, his willingness to make political compromises, his attempts to check military excess are inconsistent with the dictatorial posture. No dictator would have voluntarily appeared twice to testify before congressional committees or would have tolerated the often venomous attacks of much of the Democratic press, much less have permitted his own power to be put to the electoral test in the middle of the conflict. The measures Lincoln took were much milder than those urged by extremists in his party and in the country as a whole. The Reconstruction experience gives some indication of what would have happened during the war had his restraining hand not been present.

In assessing President Lincoln's ability as a constitutional lawyer, we can compare his constitutional approach with that of the greatest jurist of the day

— Chief Justice Taney. On the issue raised in the *Merryman* case, the consensus of learned opinion has been that Taney was right and Lincoln was wrong. But to Lincoln the issue was not that simple. The president felt that his action was necessary to "save this government if possible." Can we, in our calm perspective of hindsight, say that Lincoln erred in his judgment? It was with keen perception that Justice Jackson wrote, shortly before his death, "Had Mr. Lincoln scrupulously observed the Taney policy, I do not know whether we would have had any liberty."

On another important matter, Lincoln and Taney had conflicting constitutional views. The issue was posed by the enactment in 1863 of the first federal conscription law. Its legality was never tested directly in the federal courts, but it is known that Chief Justice Taney prepared a draft opinion in which he pronounced the act an unconstitutional encroachment by the federal government on the power of the states to maintain their own militia. It is difficult to see any legal basis for Taney's opinion in view of the categorical grant to Congress of the power to raise armies. Lincoln, like Taney, also wrote an unpublished opinion on the draft law. The Lincoln paper was a strong defense of the constitutionality of conscription: "Whether a power can be implied, when it is not expressed, has often been the subject of controversy; but this is the first case in which the degree of effrontery has been ventured upon, of denying a power which is plainly and distinctly written down in the Constitution." The power is given fully, without condition—"it is a power to raise and support armies . . . without an 'if.'"

This time it was Lincoln who was right and Taney wrong. The Lincoln opinion is reminiscent of Marshall in the magisterial simplicity of its logic and is far superior to Taney's draft. This opinion furnishes the measure of Lincoln's mastery of constitutional law. Even if we had no other indication of his ability in the field, it alone would demonstrate that Lincoln was an outstanding constitutional lawyer.

—*Journal*

(Bernard Schwartz is Webb Professor of Law at New York University Law School, from which he received his LL.B. in 1944. He has doctorates in law from the Universities of Cambridge and Paris.)

NEWS FROM CORPORATE COMMUNICATIONS

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What Kind of Lawyer Was Lincoln? Researchers Track His Legal Cases

By HERBERT MITGANG

Special to The New York Times

SPRINGFIELD, Ill. — Using 20th-century tools — computers, data bases and statistical analysis — the entire legal career of A. Lincoln Esq., scratched down with quill pens in the 19th century, is for the first time being tracked all over the country.

"The Lincoln Legals" is a major project that will continue for the next five years and produce at least three volumes of cases and documents. It is the biggest potential reservoir of new information in the field of Lincolniana since Robert T. Lincoln's papers on his father were opened at the Library of Congress 40 years ago.

Many of the details about the cases Lincoln handled during his 23 years of practice have been lost to history. Now a national search is on to discover documents that are in private hands, courthouses, newspaper files, libraries and possibly attics that would shed light on Lincoln's law career — and therefore on his motives, abilities and even some of the mysterious aspects of his personality.

The basic nine-volume "Collected Works" of Lincoln documents that was published 35 years ago does not include his legal cases, which were supposed to be brought out separately. The legal material was considered too scattered and inaccurate to include at that time. Lincoln tried at least 3,000 cases at all levels of the state and Federal court systems. He argued about 250 cases before the Illinois Supreme Court.

On appeal, Mr. Bridges said, Lincoln won more cases than he lost. "It's one of the things we hope to study more fully as we dig into the cases," he said.

75,000 Documents

There are some 75,000 documents relating to these various actions. The ambitious new research project could help to fill in many blanks about Lincoln's professional life.

Among the questions that "The Lincoln Legals" hopes to offer clues to are these:

Was Lincoln just a small-time country lawyer or was he really a big-time railroad lawyer? Would he take any case that came along regardless of his principles — and why on a few occasions did he defend certain questionable clients? Did knowledge of the law mold his character — and what effect did his legal background have on his brilliance as a writer and his controversial wartime interpretations of the Constitution?

The 16th President practiced in Springfield from 1837 until 1861 — he laughed when an old friend told him he was "too lazy to be anything but a lawyer" — before bidding an affectionate farewell to his neighbors at the Great Western railroad depot and riding off to the White House and into history, never to see his hometown again.

Seated at Lincoln's desk in the quaintly preserved law offices of Lincoln & Herndon (there's a couch in one corner where the senior partner

stretched out to relax and read his briefs and newspapers), on the third floor of the brick and wood building on the corner of Sixth and Adams Street, Roger D. Bridges spoke of the quest that he and his fulltime three-member staff are pursuing to unearth the Lincoln legal cases.

Shy About \$100,000

Mr. Bridge's own office is only a few doors from the modest rooms once occupied by Lincoln & Herndon. A historian and former head librarian of the Illinois State Historical Library, he serves as director and editor of the project, which is supported by the Illinois Historic Preservation Agency, the private Abraham Lincoln Association, and the University of Illinois law school. Its annual budget is \$330,000; the project is still shy nearly \$100,000 for this year.

"The Lincoln Legals" has already discovered new material, Mr. Bridges said, including information about cases in which Lincoln was engaged all over the Eighth Judicial Circuit, sometimes for his own clients, at other times as co-counsel with lawyers in and out of Springfield who sought his services as a courtroom advocate or to argue their cases before the Illinois Supreme Court. Some were found in bank lockboxes, some in lawyer's offices as decorations, some in old courthouses.

Mr. Bridges said that a number of Lincoln's cases set precedents.

"Among his more notable cases was Hurd v. the Rock Island Bridge

Company, tried before the U. S. Circuit Court in Chicago in 1857. That case, as Lincoln insisted, affirmed the right of railroads to equal access with river boats to transportation routes. And in an important Illinois Supreme Court decision, *The Illinois Central Railroad Company v. the County of McLean* in 1854, Lincoln won an exemption for the railroad from tax-

tion by a local unit of government.

For a hundred years, historians and biographers have wondered about Lincoln's role in slave cases in Illinois. He found himself as an advocate on both sides in two separate cases. He successfully defended the freedom of a slave, Nance, in the Supreme Court in 1840, but he lost in 1847 when he attempted to uphold the rights of a slaveholder, Robert Matson, who brought a Kentucky slave to Illinois.

"The Matson case is just the kind of case that we're anxious to find more documentation about," Mr. Bridges said.

Since "The Lincoln Legals" got into high gear about a year ago, private dealers, lawyers and court officials in Illinois and New York have produced documents in their possession.

"We found 12 Lincoln cases in the Federal Records Center in Chicago," Mr. Bridges said. "We know that Logan & Lincoln handled at least 700 bankruptcy cases in 1842 because lawyers from all over the state sent their cases to Springfield, where the federal court existed on the second floor of this building. Other records were burned in the Chicago fire."

Mr. Bridges said that one of their

best sources of information were the Works Progress Administration records, assembled during the Depression by librarians, authors and editors.

"Some people later called this work for the unemployed just a boondoggle but it is very valuable to us today. The W.P.A. workers prepared an index to all the Illinois newspapers that contained Lincoln references. We have dozens of boxes of these newspaper citations which we're now following up. Since the courts kept very poor records, the newspapers often reported the facts in important cases. Here is where we expect to find a great deal of information."

Mr. Bridges said that one of the great dreams of his staff is to find comments by Lincoln himself on the law and its meaning to him and the nation. He cited the one known fragment in existence — Lincoln's notes for a law lecture in 1850.

Lincoln said: "Resolve to be honest at all events: and if in your judgment you cannot be an honest lawyer, resolve to be honest without being a lawyer. Choose some other occupation, rather than one in the choosing of which you do, in advance, consent to be a knave."

LINCOLN was a smart and busy lawyer

By MARTIN D. TULLAI

As Americans recall and honor our 16th president on his 182nd birthday Tuesday, it is time to put to rest the myth that Lincoln was nothing more than a simple country lawyer. While his backwoods origin and "railsplitter" sobriquet have helped to foster the provincial image, in truth, Lincoln was one of the outstanding lawyers of Illinois in the 1840s and '50s.

After some self-study, he was licensed to practice law on Sept. 9, 1836. (As was the custom, he treated his examiners to dinner.)

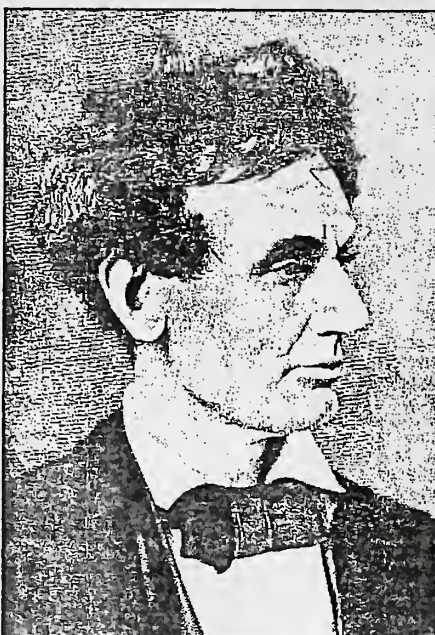
For the most part, he learned law by practicing it. And his practice was extremely varied. It involved disputes over property and debts, murder, rapes, divorces and slander. He was engaged primarily in litigation and appellate work. Criminal law was only a small part of the total practice, but some of his more famous cases were murder cases. (The trials of Henry B. Truett and William (Duff) Armstrong, the Moonlight case, are probably the best known.)

Lincoln's law career found him in partnerships with three different men — John Todd Stuart, Stephen T. Logan and finally William Herndon. When Lincoln left for Washington on Feb. 11, 1861, he looked wistfully at the Lincoln-Herndon sign and told his young associate: "Let it hang there undisturbed. Give our clients to understand that the election of a president makes no change in the firm of Lincoln and Herndon. If I live, I'm coming back some time, and then we'll go right on practicing law as if nothing had ever happened."

Although his self-assessment was characteristically modest, as when he said, "I am not an accomplished lawyer," Lincoln had a successful practice. For example, the firm of Lincoln and Logan in one 11-day period in March 1844 took court action on an average of seven cases a day.

In 1853, Lincoln and Herndon were involved in 34% of the cases before the Sangamon County Circuit Court in Springfield.

Lincoln's varied legal practice took him to courts at all levels — the Eighth Illinois Circuit Court, the Illinois Supreme Court, and federal courts up to and including the U.S.



Supreme Court, where he appeared twice in technical cases.

He was regarded as an extremely subtle lawyer and won 94 decisions in 105 cases in the Eighth Illinois Circuit.

He did his most influential work in the Supreme Court of Illinois where he participated in 243 cases and won most of them. It was here that he earned his reputation as a lawyer's lawyer, adept at meticulous preparation and cogent argument. Herndon felt Lincoln was at his best when he had time to prepare his cases beforehand.

He always earned a good income. At the time of Lincoln's marriage to Mary Todd, his earning amounted to \$1,200 a year, a gratifying income compared with the governor's salary of \$1,200 and the \$750 received by circuit judges. But it required hard work, and his fees were quite small, usually ranging from \$2.50 to \$50 and averaging about \$5 a

case. It was the volume of his work that made it lucrative. He often accepted payment in kind such as groceries, vegetables, produce, clothing, firewood or even a subscription to a local newspaper.

Lincoln's largest fee was the \$5,000 he received as counsel for the Illinois Central Railroad in the famous McClean County Tax Case. He successfully argued that railroads should be exempt from county taxes as "public works" because they already paid taxes. This had a tremendous impact on railroad construction. Lincoln, who was opposed by two of his former partners, Logan and Stuart, was forced to sue the company for his fee, but he easily won a judgment in his favor.

Another significant case in which Lincoln participated was the McCormick vs. Manny & Co. case concerning infringement of patent rights (1855). He was hired to serve as local counsel with such Eastern lawyers as Edwin M. Stanton. The rude and supercilious Stanton and the others treated Lincoln as a Western hick, snubbing him and showing little respect for the extensive brief he had prepared. It was Stanton who supposedly referred to him as "that giraffe" and "that creature from Illinois."

But Lincoln learned a great deal from the case and felt the experience was worthwhile. (Ironically, Stanton later was Lincoln's secretary of war.)

As an all-purpose lawyer, Lincoln adopted a pragmatic approach. He took just about any case and argued both sides of the law. For example, he did this in fugitive slave cases. In the case of Bailey vs. Cromwell in 1841 in the Illinois Supreme Court, Lincoln won the freedom of an indentured Negro girl sold by one white man to another. He persuaded the court that it was illegal to sell a human being in Illinois since slavery was prohibited there both by the Northwest Ordinance of 1787 and by the Illinois Constitution.

The case established the enlightened principle that in Illinois every person was free regardless of color and that the sale of a free person was illegal.

And yet in the Matson slave case of 1847, tried in Charleston, Ill., Lincoln reversed his position and defended a Kentucky slave owner out to retrieve a slave family that had run away from him. The blacks were part of a slave coffle brought from Kentucky to work a tract of land in Illinois. Ironically, the opposition put forth the exact same arguments that Lincoln had made in Bailey vs. Cromwell, but the case was not mentioned.

Lincoln, on the other hand, declared strongly that his client had brought the slaves to Illinois strictly on a temporary basis and that he planned to take them back to Kentucky after their work was done. Therefore, he maintained, Illinois law did not apply to them. This was cold and brutal logic, demonstrating how Attorney Lincoln could set aside his personal convictions — since he claimed to hate slavery — and work hard to win for a client, even if that meant sending a family back into bondage.

The court, however, ruled against him and set the blacks free, even though it did not mention the precedent Lincoln had helped to establish in Bailey vs. Cromwell.

In a law lecture, Lincoln offered this constructive advice, which is as sound today as it was in 1850:

"There is a vague popular belief that lawyers are necessarily dishonest. ... Let no young man choosing the law for a calling for a moment yield to the popular belief — resolve to be honest at all events; and if in your judgment you cannot be an honest lawyer, resolve to be honest without being a lawyer. Choose some other occupation, rather than one in the choosing of which you do, in advance, consent to be a knave."

Tullai is chairman of the history department at St. Paul's School, Brooklandville, Md.

2 Lincoln documents discovered in Mason County office back room

HAVANA, Ill. (AP) — Two rare and previously unknown legal documents penned by Abraham Lincoln have turned up in the back room of the Mason County clerk's office — where files and books with yellowing pages reach the ceiling.

Researchers say the documents, dated 1845, were verified as authentic last week.

"It's unbelievable, for being folded up for 146 years there were no major tears and the ends weren't dogeared," said William Beard, assistant editor of The Lincoln Legal Papers, a state-funded study of Lincoln's legal practice.

"It looks like Lincoln wrote them yesterday," he said.

Both manuscripts deal with the same case — a damages suit filed by a John Ritter, a landowner, against three men who built a

dam near his property. Lincoln represented the builders — Charles Howell, Julius Jones and William Pollard.

Ritter sued the men for \$300 in damages after his land was flooded. The jury awarded the plaintiff \$168 on May 23, 1845.

In the first document, Lincoln argued that the \$300 demand was too high. The second outlines Lincoln's instructions to the 11-man jury, Beard said.

"It was like winning the lottery," Beard said of the documents discovered Tuesday. "For us to find anything is really rare."

"We did not expect to find anything because most files have been combed through many times by collectors and historians," he said. "This is what it's all about, a historian finding the unknown."

Beard's colleagues sent a fax of

the documents to Springfield, where Tom Schultz, a curator with the Illinois Historic Preservation Agency, and retired curator James Hickey, a Lincoln handwriting expert, determined the papers were authentic.

The originals were then taken to Springfield, where they will be kept, Beard said.

Mike Bonansinga, who discovered the documents, Beard and another colleague are sifting through every court document filed in Mason County's courthouse during Lincoln's 24-year legal career that ended in 1861. The search started with the year 1841 when the area was established as a county.

The researchers plan on delving through court documents in 70 Illinois counties.

'New' papers show Lincoln's farm law influence

By Martin Ross

Documents recently unearthed in the recesses of the Mason County Circuit Clerk's office show that Abraham Lincoln's most significant contribution to American agriculture rested in the splitting of fine legal points rather than of rails.

While they tell a story perhaps not as compelling as a vignette from "L.A. Law," the newly found legal papers from a landowner's 1844-1845 flood damage suit are more representative of the Illinois attorney's work than the rare flashy cases which have become part of Lincoln's larger-than-life lore, said a Springfield-based Lincoln historian.

During his 24-year legal career, Lincoln was able to build a geographically widespread and commercially diverse legal practice, with a client list including the Illinois Central Railroad. However, William Beard, assistant editor of The Lincoln Legal Papers, a state-funded research and collection project, reported rural land disputes and farm-related claims constituted "a very large percentage" of Lincoln's casework.

Because land on the frontier prairie had been parceled out only decades before through "rather primitive" surveying methods employing trees, cornerstones, and other impermanent structures, Beard said attorneys such as Lincoln were highly in demand by the 1830s, to assure landowners "quick and assured" conveyance of title.

"When you hear of Lincoln cases, it's like these romantic murder cases and that sort of



William Beard, left, assistant editor with The Lincoln Legal Papers, a state-funded project aimed at collecting, editing, and publishing records from the 3,000 or more cases former President Abraham Lincoln handled in state and federal courts from 1836 to 1861, examines documents found recently in the files of the Mason County circuit clerk's office. Also looking on are Betty Strang, center, and Dottie Hopkins-Rehan, archival conservators with the Illinois State Archives, where the papers are being treated for long-term preservation.

and day out. This was the basis of his practice.

"These were important cases. They don't appear to be so independently, but cumulatively,

"file by file, paper by paper" through Mason Circuit Court records from the 1830s through 1861, when the prairie lawyer took his seat in Washington, reported Circuit Clerk Wilbur Brownfield.

Historians since World War II have combed the county's court files repeatedly for "new" Lincoln documents, but Brownfield maintained documents in the case of John Ritter vs. Charles Howell, Julius Jones, and William Pollard went undiscovered until recently because Lincoln's name appeared neither on the outside of the case file nor on the pertinent court docket.

Beard said the papers, currently being treated by staff at the Illinois State Archives, are in "unbelievable shape," with no major tears and script "like they were written yesterday."

LINCOLN WAS WELL AWARE of the importance of farming from an early age, Beard said, "but he didn't want to be a farmer himself." As early as age 8 or 9, the future statesman assisted in what the historian deemed "some of the toughest early farming procedures" — clearing Indiana's virtually impenetrable virgin forests to create tillable farmland.

Lincoln received his license to practice law in September 1838, and in April 1837 he became the junior partner in a Springfield law firm. Though Lincoln's base at the state capital helped him generate a successful practice, the state legislator-attorney "traveled the circuit" for several months each year, and he hand-

led cases in at least 70 counties across Illinois.

By the 1850s, Lincoln had become one of the state's leading attorneys, drawing fees as high as \$5,000 from such clients as the Illinois Central Railroad and appearing frequently before the Illinois Supreme Court. He nonetheless continued to handle a large volume of what Beard dubbed "pig in the cabbage patch" disputes between rural residents.

Lincoln's legal skills were amply demonstrated in Ritter vs. Howell et al. Howell, Jones, and Pollard had agreed in 1841 to pay Ritter compensation for any flooding caused by nearby construction of a mill dam. When subsequently the parties disagreed over the contracted rate of payment for flood damage, Ritter filed with the Mason Circuit Court for \$300 in damages.

Lincoln — representing Howell, Jones, and Pollard — attempted to demonstrate to a jury his clients had not entered into an "unconditional" contract with the landowner-plaintiff and should have been allowed to pay compensation in lumber rather than cash.

The jury eventually awarded Ritter \$168, but Beard held the case helped contribute to the movement away from the concept of "absolute dominion" — a landowner's power to prevent any use of neighboring land which interfered merely with the "quiet enjoyment" of his own property.

"It shows Lincoln not as a great legal theorizer, but as an honest lawyer trying to do the best for a client in a losing cause," he said.

during the major era of transformation."

LINCOLN PROJECT staff members continued last week to pour

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Cross Ex -

Warren, acting for father entirely -
- came down expressly =
Warren told me expressly &
pay 200 - the first half to B and
speaks off W's claim for him -

which I examined - I have seen exhibit (A) before first time in the day of its date. Young Moffett came to me as Sheriff, to see about the land. I sent him to Warren, he went and returned with exhibit (A) & said Warren directed him to pay \$200 to me - paid \$200 to me then, & gave me the money I now possess exhibit (B). On Sep. 23, 1854, B. Moffett came and paid to me on the account of \$36 - in part day, 24th paid \$35.25 & my receipt, I was Amos, gave him the receipt & now possess exhibit (D). At that time I saw Mr. Amos, assisting me, though the fee was given Warren, as according to exhibit (A) was paid - The fee bill and not shown when the judgment was rendered. Moffett states his father was the first on which we acted, but which a statement of it was I now suppose was incorrect and gave Warren also interest then his own - Exhibit (E), before exhibit (A) was made, he was given to me, showing for collection. When I first saw Warren, I offered him the money - he refused it saying he had not the certificate of finality. Afterwards the mistake in interest was discovered & Warren refused to take the money - unless I would pay the deficiency and expenses first, at the time after I offered I offered to pay it when Warren refused & gave him the money to keep the land - he has since been

Lincoln Co. Mar. 1853 Legal
Davis, Judge David Report - Testimony

discovered that there was a mistake of ten dollars against Moffett, so that when the two were later set against each other, it leaves still due Warren only between five and six dollars. Warren received of me the amount of the fee bill, out of the money paid me by Moffett & his son, as will appear by the receipts on the fee bill, which are herewith filed. Warren R & S. This was some time after he had refused to transfer the certificate for the land - the date of the receipts will show when.

Abraham Lincoln and David Davis

The President and the Supreme Court Justice

55 Abraham Lincoln - March 1853 3pg folio autograph manuscript (unsigned), over 300 words in Lincoln's hand, along with over 200 words written by Judge David Davis. A personal friend and political supporter of Abraham Lincoln, they rode the circuit together, he backed Lincoln as the dark horse candidate at the Chicago Republican Convention in 1860 and led the campaign to nominate him for president, perhaps the single most important individual in Lincoln's political career. After Lincoln's assassination Judge Davis was administrator for his estate.

Judge Davis as 8th Circuit Judge began this lengthy manuscript, taking down the testimony of one of the defendants, William Moffett, who is acting on behalf of his father, John B. Moffett. The Moffetts were engaged in a land transaction with William B. Warren, a Springfield businessman who had served as major of the militia during the Mormon uprising, and colonel of the 1st regt. of Illinois volunteers in the Mexican War, later clerk of the Illinois Supreme Court.

Lincoln continues the manuscript for the next two pages by taking down the lengthy testimony of Josiah Francis, Sangamon County sheriff, who was responsible for executing the writs issued in this case. It is interesting that Lincoln makes numerous corrections during the cross examination. An unusual Lincoln Legal 5,500.

Project unearthing Lincoln's legal past

By CHRIS SCHULTZ
News-Gazette Staff Writer

State history sleuths are on the trail of Abraham Lincoln's Illinois law practice

"And sometime later this year or in early 1992, researchers for the Lincoln Law Papers Project will come to the Champaign County Courthouse.

They'll begin poking through the dusty back files in the old jail, seeking hints and clues about the cases Lincoln tried here 130 to 140 years ago.

"When we visit Champaign County, we will conduct an exhaustive search, and we hope to have the cooperation of the circuit clerk," said Cullom Davis, director of the project.

Davis said the search was started six years ago by the Illinois Historic Preservation Agency to document, case by case, Lincoln's 25-year career as a lawyer.

The project is staggering along, and no one is predicting when it will be completed.

Although biography experts believe Lincoln has had more written about him than any other American, very little is known about his legal practice.



LINCOLN

offer researchers access by names and by geography — where the case was filed and heard — and by the type of case.

"What I am going to be doing this summer is helping them figure out how to classify court cases by legal

matter," said Freyfogle. "Some of my work this year will be to decide what cases should be published and how much should be explained by editorial note."

The project has three researchers working full time and six working during the summer, Davis said.

So far, state historians have been able to plumb the courthouse depths in just two counties.

Nearly 10,000 pages of documents, including a precious few in Lincoln's hand, were found in the basement of the Morgan County courthouse, he said. Re-

searchers also combed the Menard County files.

This summer, a team of six researchers will go through the Cass, Fulton and Schuyler county courthouses, Davis said.

What researchers are finding is that Lincoln spent most of his time arguing civil cases. Only about 10 percent of his practice concerned criminal matters.

Later in his career, Lincoln represented companies and railroads, the Illinois Central Railroad in particular.

FREYFOGLE SAID the UI law school became involved in the project four years ago, largely at the initiative of Judge Harlington Wood, formerly of the 7th U.S. Circuit Court of Appeals.

A longtime Lincoln fan, Wood realized that a law school would be a needed resource in any attempt to reconstruct Lincoln's law practice, Freyfogle said.

Lincoln wrote in the legal idiom of his day. Some words used in the practice of law then are not used now. Abbreviations, some in Latin, pepper the old documents.

Freyfogle said he became involved because he is interested in Lincoln and because he teaches a course in history of the law.

Ultimately, Freyfogle said, the legal papers project will raise the question: How good a lawyer was Lincoln?

His career record at the state Supreme Court level wasn't outstanding. He had 350 cases heard before Illinois' high court and won about half, said Freyfogle.

A better measure of Lincoln was that he succeeded in the business of lawyering, a feat few people managed at the time, Freyfogle said.

Perhaps more revealing, the documents show how Lincoln did business, said Freyfogle.

Lincoln's fees remained modest even after he became a well-known litigator.

And he and his junior partner, William "Billy" Herndon, shared their fees on a 50-50 basis, something almost unheard of, said Freyfogle.

Usually, a junior partner received only 30 percent of a firm's income, he said.

Lincoln papers are rare items locally

Abraham Lincoln practiced law here

Urbana, an unimposing community of 250 in the mid-1800s, wasn't the most important stop in the old Eighth Judicial Circuit, but Lincoln made frequent trips here to represent clients, file briefs, take depositions and meet with old friends.

But you won't find Lincoln's name on legal papers at the Champaign County Courthouse. Documents with his signature are long gone, scattered to libraries and private collections around the world.

Even those counties still in possession of some Lincoln memorabilia may have trouble finding them.

Somewhere in the Champaign County Courthouse archives, for example, there may be a docket book containing entries in Lincoln's handwriting.

For two days in April 1858, Abraham Lincoln sat as acting judge in the county. He heard 134 cases and entered the results of each hearing into the judge's docket book.

Then-Circuit Clerk Robert C. Martin found the book with Lincoln's notations in 1958. But no one knows for sure where that docket book is now.

Former Circuit Clerk Betty Smith remembers the book being turned over to the Champaign County Archives at the Urbana Free Library. But the archives says it doesn't have that book.

The county's records are stored in the old county jail, but no one seems to know if the Lincoln docket book is among them.

DANVILLE, WHICH WAS much more important than Urbana as a legal center in the old Eighth Circuit, appears also to have been picked clean of Lincoln papers.

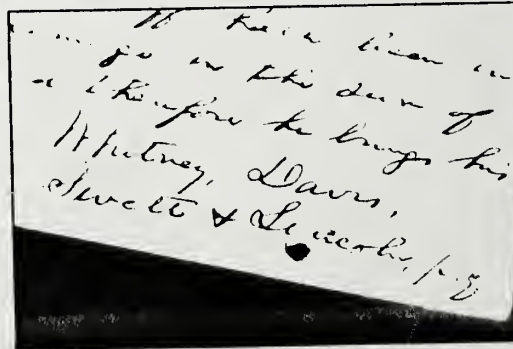
There may be some court briefs with Lincoln's signature in the Vermilion County Courthouse, but Vermilion County Circuit Clerk Gerald Block said he hasn't run across any.

"We've never searched, and there are thousands of old documents here," he said.

The only known legal documents in Champaign County signed by Lincoln are in the Lincoln Room at the University of Illinois Library.

One concerns a slander case settlement written and signed by Lincoln.

It was acquired in the 1940s by UI professor and historian Phineas Winsor, said Martha Friedman, librarian of the UI



News-Gazette Photo by John C. Doherty

The UI has as part of its Lincoln collection this legal brief written by the Great Emancipator in the 1850s. Many courthouses were picked clean of Lincoln papers long ago.

history department library.

The second is an 887-word brief in a trespass case dating from 1858, written and signed by Lincoln for the firm of Whitney, Davis, Sweet & Lincoln.

The university bought that document at auction in New York for \$5,000, about 12 years ago, Friedman said. The document would sell for up to \$50,000 today, she said.

The active trafficking in Lincoln papers — what Friedman scorns as "the Lincoln industry" — is a major problem facing the Lincoln Legal Papers project of the Illinois Historic Preservation Agency in Springfield.

Cullom Davis, director of the project, said researchers wrote to 15,000 U.S. libraries and historical agencies asking for any information on Lincoln's legal papers.

Major holdings are in the Library of Congress, the New York Public Library and the Illinois state archives, Davis said.

Private collectors often have fragments of cases, and the project is trying to reach them through dealers and informal contacts to get copies.

The spread of Illinois court cases that bear Lincoln's signature has been so wide that the Illinois Legislature decided not to invoke its right to recover those documents, Davis said.

Which suits him fine. Collectors don't mind sharing information from their Lincoln collections if they know Illinois won't try to take back the items, he said.

Some of the Lincoln legal documents taken from county courthouses over the years prob-

ably found their way to the Abraham Lincoln Book Shop in Chicago.

The shop buys and sells the personal letters, public documents and signatures of Lincoln and the men who knew Lincoln.

Shop owner Dennis Weinberg said he recalls handling several Lincoln court documents from Champaign County, but he doesn't have any in his shop right now.

"They were all purloined by clerks who were approached by collectors," Weinberg said.

SOME 19TH CENTURY court clerks, he explained, didn't consider themselves the keepers of posterity and would sell the documents to collectors for \$5, \$10 or \$50.

Weinberg said he and other dealers are cooperating with the state's search for Lincoln's court cases. Noting he has already sent copies of legal documents to Davis and his researchers, Weinberg said a comprehensive publication of Lincoln's court cases will enhance the value of the originals.

Today, a Lincoln signature clipped from a letter or document sells for at least \$3,000, Weinberg said.

At the high end, Lincoln papers have sold for as much as \$295,000 at public auction. One letter sold privately for \$500,000, Weinberg said.

The value of Lincoln's letters and documents aren't based on their rarity, he said.

"With Lincoln," Weinberg said, "he's desirable because of who he was and what he did."

CHRIS SCHULTZ

Historian: Clerks preserve records well

By GREG OLSON
Journal Courier Reporter

After a year and a half of combing through old county court records, a legal historian has discovered that circuit clerks are doing an admirable job of preserving their records.

"The one thing I've been absolutely amazed at is the completeness of the records," said Bill Beard, an assistant editor with the Lincoln Legal Papers project. The Lincoln Legal Papers is conducting a search of Illinois' county courthouses for documents related to the 16th president's legal career, which spanned the years 1837-61.

Mr. Beard said the Lincoln Legal Papers staff has thus far completed searches in about eight central Illinois courthouses, including Morgan and Mason, the only places where Lincoln documents have been found. And most of the 19th century records are in excellent condition and are being stored well, he said.

Mr. Beard said a recent report in the Journal Courier concerning the storage of old records in Cass County was misleading. He said it was true that an old docket book found there had suffered some water damage, but that it was an isolated incident. "The Cass records are excellent," Mr. Beard said. "The case files are filed by division — chancery, common law and criminal law cases."

In addition to "meticulous care" taken by circuit clerks over the years, the documents have survived because they are made of high quality paper, Mr. Beard said. "The paper back then was a lot thicker and it was processed purely out of wood," unlike most of the paper produced today, he said.

Mr. Beard said the only prob-

lem he has seen with the records is that historians haven't made better use of what he calls "a gold mine" of historical research material. The old court records are among the last untapped resources of such material, and they provide a window on past economic, political and social ways of life, he said.

Mr. Beard said he would be returning to Morgan County soon to assist Circuit Clerk

Barb Baker in moving some old court records from the third floor to the basement of the courthouse where most of the 19th century court documents are kept.

Mrs. Baker said she appreciated the work the Lincoln Legal Papers staff members did at the courthouse and that she will do everything she can to ensure the safety of the county's 19th century records.

"I enjoyed working with them and getting a better idea of what types of records we have," Mrs. Baker said. She added that the removal of the records from the third floor will help to preserve them and place them with similar documents. Mrs. Baker said the temperature and humidity of the basement were much better than in the third floor attic of the courthouse, where there are no climate controls.

Bond for Tavern License

Know all Men by these Presents, That we Edward Hertle
and Edward Hertle are held and firmly bound unto Joseph Duncan,
Governor of the State of Illinois, or his successor in office, for the use of the People of the
State of Illinois, in the penal sum of Three hundred dollars, the true payment of which
well and duly to be made, we, and each of us, bind ourselves, our heirs, executors and ad-
ministrators jointly and severally, firmly with these presents, sealed with our seals, and dis-
tributed as the law directs this Eleventh day of August A.D.
1838, one thousand eight hundred and thirty-eight.

The Condition of the above Obligation is Such: That whereas, the
above bounden Edward Hertle is about to
obtain License to keep a Tavern in Town of Springfield within the county of
Madison and State of Illinois, during the term of One year.

Now Therefore Know Ye, That if the said Edward Hertle
shall at all times, be of good behavior and observe all the laws
and ordinances, which are, or shall be made, or be in force relating to Innkeepers or
Tavern Keepers within the State, then the above obligation to be void, otherwise to remain
in full force and virtue in law.

DOCUMENTS LIKE THIS bond for an 1838 tavern license in Morgan County have been saved by the "meticulous care" of circuit clerks since the founding of the state of Illinois. So says a legal historian who has led records' searches through several Illinois courthouses for Lincoln legal documents.

Documents debunk myth of Lincoln as 'hick lawyer'

By HERBERT MITGANG

New York Times

Two legal documents from the 1850s have been discovered in dusty cardboard and tin boxes in an overlooked county-records room and in an attic of a courthouse where A. Lincoln, Esq., practiced, enhancing his reputation as one of the leading trial and appeals lawyers of his era in Illinois.

Read together, the new finds serve to entomb the myth that Lincoln was simply a hick lawyer who handled only small-town, morally correct cases for his friends and neighbors in Springfield.

One document concerns a client of Lincoln's accused of murder. The other is of great significance because its 43 legal-size pages make it the longest one known to exist in Lincoln's own handwriting.

Sometime after 1855, when the document was filed, his signature was cut off, probably by an amateur collector who did not realize



Lincoln

available for outside inspection until now.

Scholars estimate that it could fetch \$100,000 or more if it were auctioned.

This handwritten document concerns a complicated railroad ownership and fraud matter that dragged on for five years in federal and state courts.

Lincoln represented the railroad's shady financiers and eventually lost the case.

that the pages were written by Lincoln himself.

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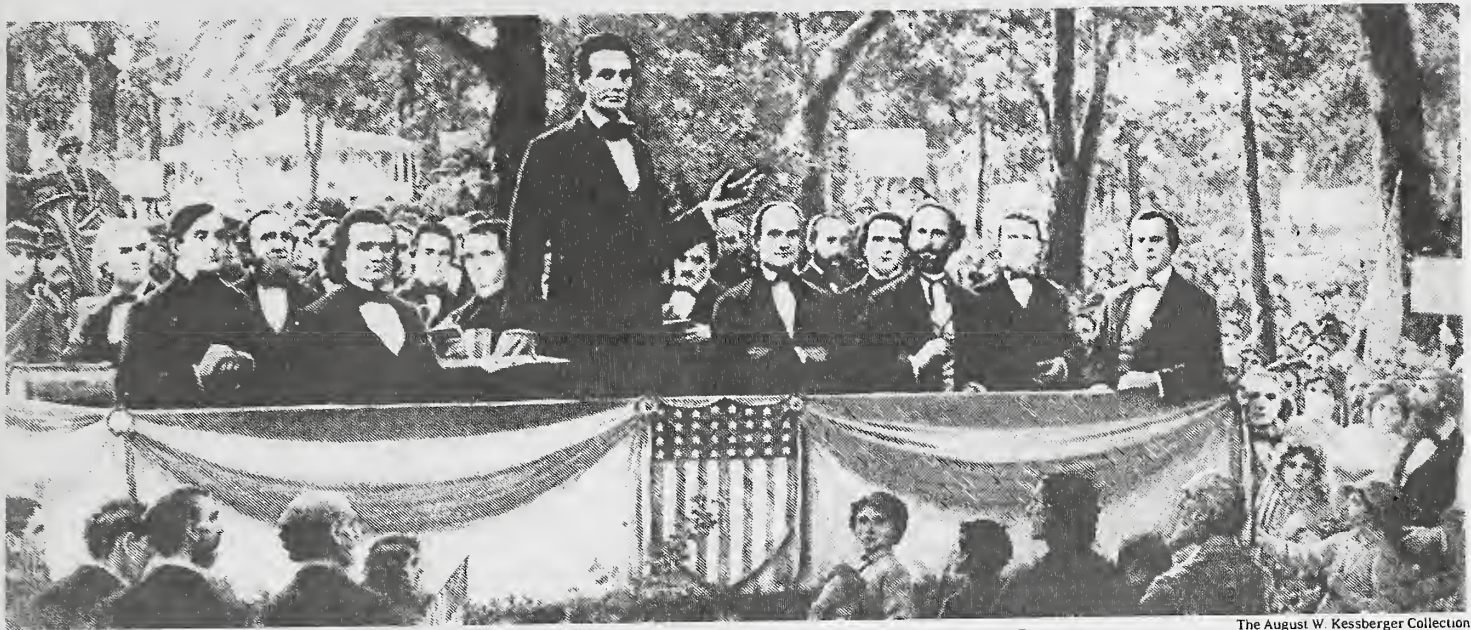
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The August W. Kessberger Collection

*We acknowledge service of the above notice
on the 12th day of August 1857
McClernand & Herndon
Lincoln & Herndon.*

Among documents of Abraham Lincoln recently discovered was part of his defense of an accused murderer in 1857. As defense counsel, he wrote, "Lincoln & Herndon." William Herndon was his last law partner. Lincoln is seen in 1858 at debate with Senator Stephen A. Douglas, seated second from left.

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Under the Dust, a New Luster for A. Lincoln, Esq.

By HERBERT MITGANG

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Read together, the new finds serve to entomb the myth that Lincoln was simply a hick lawyer who handled only small-town, morally correct cases for his friends and neighbors in Springfield.

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This handwritten document concerns a complicated railroad ownership and fraud matter that dragged on for five years in Federal and state courts. Lincoln represented the railroad's shady financiers and eventually lost the case.

Blanket Search of Courthouse

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The researchers were making a blanket search of all documents in the Macoupin County Courthouse in Carlinville, 45 miles south of Springfield, when Ms. Krause spotted an old document in the circuit court clerk's office. When she unfolded it — perhaps the first time it had been opened in 135 years — her heart skipped a beat, she said. She immediately recognized Lincoln's clear, flowing handwriting.

"The 43-page document tells us a lot about Lincoln's mind and skills," said Cullom Davis, director and senior editor of the Lincoln Legal Papers. "His writing is a reflection of his lucid thinking in a complex case. There are relatively few strikeouts. What we see is all original. He didn't use a secretary or have a word processor to conceal any changes or second thoughts. His penmanship is quite distinctive compared to the writing of other contemporary lawyers and clerks we've studied."

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The central issue involved the financial dealings of Mr. Bacon, a board member and later president of the Ohio and Mississippi. His bank provided money to the railroad and later obtained money from the railroad for the bank.

The stockholders asked the court to name an independent receiver to run the railroad until the lawsuit was settled. Lincoln's 43-page answer to the 102-page complaint avoided a direct rebuttal of the charges against Mr. Bacon, whose financial dealings appeared highly questionable. Lincoln

asked that the case be dismissed, arguing that only the Ohio and Mississippi Railroad, not individual stockholders, had a cause of action. In short, Lincoln did not question most of the facts but made his arguments on legal grounds.

Judge David M. Woodson did not agree with Lincoln's defense and ruled in favor of the plaintiffs. But in the view of the Lincoln Legal Papers experts, Lincoln did obtain a more favorable financial judgment than expected for his clients, considering the degree of their fraudulent activities.

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Recently found documents show a skillful legal tactician.

his main fees while engaged as a railroad lawyer. The biggest fee he ever billed the Illinois Central Railroad, which he often represented, was for \$5,000; he was forced to obtain a judgment against the railroad when it refused to pay him.

The Murder Case

The second document, part of Lincoln's defense of an accused murderer in 1857, was found through educated guesswork. Mr. Lupton, a graduate assistant at Sangamon State University in Springfield, said he discovered it last July in the Macoupin County Courthouse. "The county clerk was surprised and pleased at our Lincoln discovery," Mr. Lupton said. "He didn't know it existed."

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ressed to the Sangamon County Circuit Court, in Springfield, asking to move the trial to a different county. A second page includes a notice of additional witnesses by the state's attorney and acknowledged by Lincoln's signature. As defense counsel, he wrote, "Lincoln & Herndon." William Herndon was Lincoln's last law partner.

Criminal cases were actually a small part of Lincoln's practice, but they were notorious and kept his name before the public. He ran for the United States Senate against Stephen A. Douglas a year after he took on this murder case. As a result of new research, it is now known that during his 24 years of practicing law before being elected President in 1860 Lincoln handled more than 400 criminal and civil appeals in the Illinois Supreme Court.

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The case was scheduled to be tried in the Circuit Court in Sangamon County, where an outraged public demanded a conviction. The victim had left a wife and several children. The Illinois State Journal of Springfield reported, "The practice of keeping firearms loaded and ready for immediate use cannot be too severely reprehended."

As usual when Lincoln defended someone accused of murder, his first move was to let things cool down by seeking an extension of the case or changing the location of the trial, both delaying tactics. In his affidavit, Lincoln wrote that Mr. Bantzhouse "fears he will not receive a fair and impartial trial in the court in which the trial is pending, on account that the minds of the inhabitants of the said county of

Sangamon are prejudiced against him."

There was more to Lincoln's affidavit than appeared on the surface. With a German client, Lincoln wanted the trial to take place where there was a sympathetic German population, thereby increasing the odds for acquittal. Many more Germans lived in Macoupin County than in Sangamon County.

One other element in the case worked in Lincoln's favor in Springfield. The state's attorney, J. B. White,

Breaking a myth that Lincoln took only morally correct cases.

had held his job for only a year and was inexperienced. Lincoln knew it and used all the available legal weapons against the state.

After Lincoln got a delay to line up more witnesses as well as to change the trial's location, the case never came to trial anywhere because Lincoln's client was unable to get a speedy trial under the law. The statutory limit for trying a felony within two consecutive court terms had expired, and Lincoln sought to have the indictment dismissed in Macoupin County. The state's attorney tried to have Mr. Bantzhouse held in jail to await the action of a grand jury, but the judge overruled the prosecutor and Mr. Bantzhouse walked out a free man.

"It's difficult to imagine that Lincoln's client was not guilty of even manslaughter," said William D. Beard, assistant editor of the Lincoln Legal Papers. "But Lincoln clearly played a better game of legal chess than the state's attorney. So much for Lincoln only handling cases that were morally correct."

The Cases That Lawyer Lincoln Took

To the Editor:

"Under the Dust, a New Luster for A. Lincoln, Esq." (news article, Feb. 9) credits the Lincoln manuscripts discovered in the Macoupin County Courthouse in Illinois with debunking the myth that Lincoln took only morally correct cases. This was done long ago by John J. Duff in "A. Lincoln, Prairie Lawyer" (New York, 1960), who did not set out to destroy the image of the "hick lawyer"; the evidence did so.

In your Book Review (March 20, 1960), Richard N. Current wrote: "John J. Duff, since 1927 a lawyer at the New York bar, has little patience with those who say that Lincoln seldom defended persons charged with crime, and never did so unless assured of their innocence. This, Mr. Duff says, is 'poppycock.' Lincoln often took a case where the facts were overwhelmingly against his client and like any good lawyer has put forth his best effort regardless of what he thought of the client's guilt."

The Duff book clearly shows the relationship between the greatness of



Anders Wenngren

Lincoln's experience as President and his earlier experience at the Illinois bar, where his judgment, lucidity and eloquence foreshadowed the gifts of the years ahead. More documents will undoubtedly be uncovered that will underscore John Duff's theories.

MARGARET GRENNAN LEHMANN
Bronx, Feb. 19, 1992

Documents Reveal Lincoln's Shrewd Legal Mind

By **HERBERT MITGANG**
N.Y. Times News Service

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One document concerns a client of Lincoln's accused of murder. The other is of great significance because its 43 legal-size pages make it the longest one known to exist in Lincoln's own handwriting.

Both documents were only recently made available for outside inspection.

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Questionable Dealings

The central issue involved the financial dealings of Bacon, a board member and later president of the Ohio and Mississippi. His bank provided money to the railroad and later obtained money from the railroad for the bank.

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Shelved legal documents prove Lincoln's prowess

By HERBERT MITGANG
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Abe Lincoln's Court Papers Are Found

Fraud, homicide cases destroy myth of naive lawyer with virtuous clientele

By Herbert Mitgang
New York Times

Springfield, Ill.

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Complicated Fraud Case

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ABRAHAM LINCOLN
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Ruling Favors Opponents

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Drunken Melee

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One other element in the case worked in Lincoln's favor in the new location. The state's attorney, J. B. White, was inexperienced, with only a year on the job.

Delaying Tactic Works

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Law project makes an honest effort to 'humanize' Lincoln

By KEVIN McDERMOTT

JR 2/24/92

STAFF WRITER

In a sweaty Springfield courtroom in 1859, at the peak of a sensational murder trial, the tall, lanky lawyer for the defense addressed his star witness — and constructed what may be one of the most unlikely stories ever swallowed by a jury.

"State whether you were with Greek Crafton shortly before he died and at the time he was expecting death," the lawyer asked the witness, who was the grandfather of defendant Peachy Quinn Harrison. "And if so, state what you heard ..."

The grandfather answered that he had visited Crafton as the man lay dying from a knife wound inflicted by Harrison.

He said he held Crafton's hand and heard his dying words:

"I have brought it upon myself, and I forgive Quinn and I want it said to all my friends that I have no enmity in my heart against any man. If I die, I want it declared to all that I die in peace with God and all mankind."

Over the objections of the prosecution, the jury was allowed to hear the grandfather's convenient story, that Crafton had taken blame for his own stabbing. Harrison later was acquitted on grounds of self-defense.

Attorney Abraham Lincoln, "Honest Abe," had won once again.

But even 132 years later, it's difficult to believe that Abe's tactics that day were completely honest. He was, after all, a lawyer. And like it or not, he was a good one.

"The notion still persists that Lincoln always championed the underdog, that he only took (innocent) clients," says Cullom Davis, director of the Springfield-based Lincoln Legal Papers Project. "That's not what being a good lawyer is all about."

"People who understand the legal practice know that lawyers shouldn't be judged by their clients. Lincoln was a shrewd tactician of the law, and he did everything that the law and the facts permitted to prevail for his client."

As Davis and other state historians document Lincoln's pre-presidential legal career — one of the last relatively uncharted areas of his life — the emerging picture may be both intriguing and troubling to those who still view the 16th president as a human deity.

The popular image of Lincoln the lawyer has him humbly riding the circuit around central Illinois, defending the downtrodden, charming juries with folksy stories and generally standing up for simple truths.

In fact, the legal papers project is finding new evidence to support what scholars have long known about Lincoln the lawyer: that he expertly fought for paying clients regardless of their guilt, employing legal technicalities if high principle wouldn't work, and doing what he had to to win.

In the legal world then, as now, it went with the territory.

"Anyone who thinks about it realizes it's part of the nature of the legal process," said Richard Hart, a Springfield attorney on the advisory board for the legal papers project. "Somebody has to represent the bad guy, or the system wouldn't work."

"This shouldn't hurt (Lincoln enthusiasts)," said Davis, a devout Lincoln admirer who offers no apologies for confronting the president's "secular saint" image. "I am of the belief that the more accurate information we have of a mythical figure like Abraham Lincoln, the more we have to ad-

See **PROJECT** on page 3

PROJECT

From page 1

mire."

The Lincoln Legal Papers Project is collecting and analyzing an estimated 80,000 to 100,000 19th-century Illinois court documents. The goal is to compile the most comprehensive account ever of Lincoln's 24-year legal career.

The project's data — much of it being gathered from dusty, long-forgotten vaults of small-town court-houses throughout central Illinois — aren't likely to shock serious Lincoln historians.

But the project also has received national attention from the non-academic media, including write-ups in the New York Times and many other newspapers. There, some starry-eyed Lincoln fans may be getting a harsh dose of reality.

They're learning, for example, that the bulk of Lincoln's career was devoted to undramatic land settlements, debts, probate and other complex, technical issues (in fact, he was a pioneer in what is now called corporate law).

They're learning that he frequently represented the railroads, notorious as they were in his time. And that, when a criminal case did come his way, he saw his duty in the same light that lawyers today see it — not necessarily to find the truth, but to win an acquittal for his client.

The fans also are learning something about Lincoln's simple "country lawyer" personality: He played it like a violin for jurors, a shrewd litigator lurking just behind the anecdotes.

"In his (Illinois) Supreme Court cases, he demonstrated wisdom, he was well-prepared, he did a good, professional job, as one would define

it today," said Dan Bannister of Springfield, a lawyer and author of "Lincoln and the Common Law," a newly published synopsis of Lincoln's Illinois Supreme Court cases. "He wasn't a buffoon."

Barrister believes society is ready to let go of its folksy myths about Lincoln.

"There's no Santa Claus, either," he quipped. "Maybe the younger public doesn't know about all the (Lincoln) myths any more, the way we learned them. Maybe the myth isn't as interesting as the truth."

Among the truths that don't fit the myth:

■ In an August 1857 case, Lincoln got murder charges against a client dismissed by stalling the legal process while trying to find a sympathetic jury.

Lincoln represented a German-American who was accused of killing a neighbor with a shotgun, and he requested that the trial be moved out of Sangamon County because of popular prejudice against Germans. The county he requested for the trial was Macoupin, which had a large German population.

In the end, there was no trial. The law required that trials be held within two terms of the court, and that deadline passed while the parties were arguing about where to conduct the trial. The charges were dismissed without any discussion of guilt or innocence.

■ In 1855, Lincoln filed suit on behalf of a dark-skinned Portuguese man who had inaccurately been called "a Negro." That comment, Lincoln successfully argued, was slanderous.

"Though it is a crime to be a Negro, (it is) no crime to be born with black skin," Lincoln told the jury, according to later accounts. "But my client is not a Negro. His skin may not be as

white as ours, but I say he is not a Negro."

The issue wasn't as petty as it sounds now; if the jury had decided the man was "a Negro" (instead of merely "dark-skinned"), he might have lost his marriage and citizenship under Illinois' strict racial laws.

Lincoln apparently didn't raise any questions about whether those laws were morally right — he simply proved that they didn't apply to his client and won a slander judgment.

■ In the famed "Almanac Trial" of 1858, Lincoln used an astronomical chart to discredit a murder witness, creating a controversy that continues to this day.

The witness claimed he saw Lincoln's client and another man beating a third man, who later died. The alleged beating happened at night, but the witness said he could see it from 150 feet away by the light of a high moon.

Lincoln then produced an almanac to show that the moon was near the horizon at the time of the alleged beating.

Others at the scene were sure they remembered a high moon, and local folklore for years afterward held that Lincoln had used a phony almanac (although two Texas astronomers recently conducted a computer re-enactment which, they say, shows that the moon might have suddenly moved to the horizon that night because of a rare lunar phenomenon).

In any case, Lincoln's almanac strategy created enough doubt in the jurors' minds to win an acquittal for his client.

■ There were at least a half-dozen cases in which Lincoln sued his own clients for his legal fees, including one suit for \$13.50 (about \$130 in today's currency).

Those suits reflect one of the major differences in the legal profession in

Lincoln's time: lawyers then made most of their money from standard fees, rather than large court settlements. The suits also challenge the popular notion that Lincoln was unconcerned about money and casual about collecting his fees.

"The myths are so hardy — we keep battling them and they still prevail," said Davis, whose efforts to humanize Lincoln have put him in an ironic position. "Sometimes I feel like we're beating a straw man."

The legal papers project has a \$215,000 budget this year through the Illinois Historic Preservation Agency and private sponsors. Davis and his eight-member staff have collected some 37,000 Lincoln-related documents in the last two years, and the "gathering" phase should be complete by the end of 1993.

They expect to spend another three to five years putting the data into two formats: a complete facsimile collection of all of the documents found, and a five-volume book edition analyzing the most notable cases.

MARCH
1992
SALE 76

The Presidents

A Price List of Exceptional & Historical
Manuscripts — Imprints — Photographs
by Gary Hendershott

Price \$3

Matthew H. Hawks

vs

Samuel Lands

Error to McLean

The defendant in error recovered
a judgment in the McLean circuit court against the
plaintiff in error, on the 30th Sept. 1841, for
\$419-43 cents - & costs -

The clerk of the Supreme court will
issue a writ of error to the clerk of the McLean
circuit court, also a Scire facias for the defendant
in error, directed to the Sheriff of Tazewell county -
Lincoln. p-q

I am to see that the preliminary fee of five dollars
is paid, when the record is filed in the above case
A. Lincoln

Abraham Lincoln and the Supreme Court

- 42 Abraham Lincoln - 1pg ALS legal petition "signed twice" McLean County, IL. Sept. 26, 1846 being the initial document in the Appeals process from Circuit Court to the Supreme Court, which is quite rare in Lincoln Legals, well written all in his hand as follows:

"The defendant in error recovered a judgement in the McLean circuit court against the plaintiff in error, on the 30th Sept. 1841, for \$419.43 cents + costs.

The clerk of the Supreme Court will issue a writ of error to the clerk of the McLean circuit court, also a "Scire facias" for the defendant in error, directed to the Sheriff of Tazewell county. Lincoln p.q.

I am to see that the preliminary fee of five dollars is paid, when the record is filed in the above case.

A. Lincoln"

Hawks and Lands, just like Lincoln were originally from Kentucky, both settled in Illinois in 1835 entering a business partnership together which they dissolved in 1841 that brought about this lawsuit, the circuit court ruled in favor of Lands, Hawks appealed to the Illinois Supreme Court where Lincoln represented him. Lincoln's brief was unusually full of citations and cases, meaning that he may well have been throwing up smokescreens to support a weak case. The court systematically destroyed Lincoln's arguments and Abraham Lincoln lost this case before the Supreme Court. Docketed on verso by the Supreme Court clerk, with light acetone along right margin ends, yet attractive and very exhibitable, being well written in dark ink and also quite rare with both styles of his signature - his legal "Lincoln p.q." and his formal "A. Lincoln". A Superb exhibit item of Lincoln and the Supreme Court.....9,500.

Narrative Overview

[Home](#)[Up](#)

The Law Practice of Abraham Lincoln: A Narrative Overview

By John A. Lupton, Assistant Director & Assistant Editor, *The Lincoln Legal Papers*.

Introduction

Abraham Lincoln practiced law for nearly twenty-five years in the Illinois courts. Other than part-time service in the Illinois legislature and the United States Congress, law was his full-time occupation. Lincoln handled cases in almost all court levels: justice of the peace, county, circuit, appellate, and federal. He had three successive formal partnerships: junior partner to John Todd Stuart (1837-1841), junior partner to Stephen T. Logan (1841-1844), and senior partner to William H. Herndon (1844-1861). Like many of his colleagues at the bar, Lincoln was a general practice attorney and represented clients in a variety of civil and criminal actions including debt, slander, divorce, dower and partition, mortgage foreclosure, and murder.

Legal Education

While Lincoln lived in New Salem, Illinois, from 1831 to 1837, he had various encounters with the legal system. He wrote legal documents for Bowling Green, the local justice of the peace, appeared in several lawsuits as a witness, and was the defendant in several cases in which creditors sued him to collect debts. Lincoln considered a career in law after he lost the 1832 election for the Illinois General Assembly, but, according to his 1860 campaign autobiography, decided against a legal career because he thought he needed more education to succeed as a lawyer. In 1834, Lincoln won election as a representative for Sangamon County to the state legislature. When he attended legislative sessions in Vandalia, fellow representative John Todd Stuart encouraged him to study law.

Aspiring attorneys typically studied with established members of the bar or served as clerks in law offices to prepare for a legal career. Lincoln had no such opportunity in New Salem. Instead, he borrowed law books from Stuart's law office in Springfield, twenty miles away, and read them while the legislature was not in session. Lincoln read Blackstone's Commentaries and legal pleading and practice treatises to become familiar with the forms of

action and the legal system. On March 24, 1836, the Sangamon County Circuit Court in Springfield certified that Lincoln was a person of good moral character. This certification was the first of several necessary steps to become a lawyer in Illinois. On September 9, 1836, the Illinois Supreme Court examined Lincoln and issued him a license to practice law in all of the courts in the state, which was the final step to become an attorney.

Stuart-Lincoln Partnership

By the spring of 1837, Lincoln had moved to Springfield and accepted Stuart's offer to become his junior law partner. Stuart was mainly interested in politics and gave Lincoln little legal instruction. Consequently, Lincoln had to learn the practice of law by trying cases in court. In November 1838, Stuart won election to the United States House of Representatives and left Lincoln to handle the legal partnership business alone. Stuart remained in Congress until March 1843.

Stuart and Lincoln's practice consisted primarily of debt-related matters in the various courts in which they practiced. They also handled a variety of legal actions in the criminal, common law, and chancery divisions of law. Stuart and Lincoln both traveled the First Judicial Circuit. When Sangamon County became part of the newly formed Eighth Judicial Circuit in 1839, Lincoln began to ride that circuit. Stuart and Lincoln concentrated their legal practice in Sangamon, Tazewell, Logan, and McLean counties, but they handled cases elsewhere as well.

J. T. STUART AND A. LINCOLN,
ATTORNEYS and Counsellors at Law, will practice,
conjointly, in the Courts of this Judicial Circuit --
Office No. 4 Hoffman's Row, up stairs.
Springfield, April 12, 1837. 4

The Stuart and Lincoln law office was in an upstairs room along Hoffman's Row, a group of buildings on Fifth Street in Springfield, one block north of the public square. After the state legislature voted to move the state capital from Vandalia to Springfield in February 1837, the city donated the public square for the new statehouse. As part of their office work, Stuart and Lincoln kept an office fee book as a record of their legal fees from handling cases and nonlitigation activities. On April 14, 1841, Stuart and Lincoln formally dissolved their legal partnership. Stuart had won election to a second term in Congress, and Lincoln was unable to maintain the partnership by himself.

Logan-Lincoln Partnership

Early in the spring of 1841, Lincoln and Stephen T. Logan had begun practicing law together. Logan introduced Lincoln to new areas of law. After Springfield officially became the Illinois state capital in 1839, the federal court and the Illinois Supreme Court, both of which had met in Vandalia, moved to Springfield. In response to the Panic of 1837, the United States Congress passed the Bankruptcy Act in 1841 granting relief to debtors, the first such federal

Logan & Lincoln,
ATTORNEYS and Counsellors at Law, Springfield,
--Office opposite Hoffman's Row.

legislation in nearly forty years. Logan and Lincoln handled many bankruptcy cases before the federal court during the brief time that the act was in effect. During his partnership with Logan, Lincoln increased his caseload before

the Illinois Supreme Court and handled appeals from all areas of the state.

Logan stopped circuit traveling when Lincoln became his partner. Logan remained in Springfield, while Lincoln traveled the Eighth Judicial Circuit. Lincoln expanded his legal practice outside of the Eighth Circuit as well, routinely traveling to Coles County, where his father lived, to try cases. He also ventured as far as Clark County, on the Indiana border, and Madison County, on the Missouri border. Most of his circuit traveling took place in the spring and fall terms in each of the counties on the Eighth Circuit.

Logan and Lincoln first had a law office on the opposite side of Fifth Street from Hoffman's Row. In August 1843, they moved to the Tinsley building, which was located on the southeast corner of the public square across Adams Street from the statehouse. The Tinsley building also housed the local post office and the federal courtroom. Logan heightened Lincoln's awareness of legal fees, and they sued several delinquent clients. Logan and Lincoln dissolved their partnership in December 1844. Logan wanted to practice law with his son David, and Lincoln wanted to begin his own law firm.

Lincoln-Herndon Partnership

Following the dissolution of the Logan-Lincoln partnership, Lincoln asked William H. Herndon, a young law clerk in the Logan and Lincoln law office, to be his junior partner. Initially, Lincoln and Herndon remained in Logan and Lincoln's old office in the Tinsley building. After Lincoln left for Washington in October 1847 to serve a term in the United States House of Representatives, Herndon moved to a smaller office in the same building. Upon

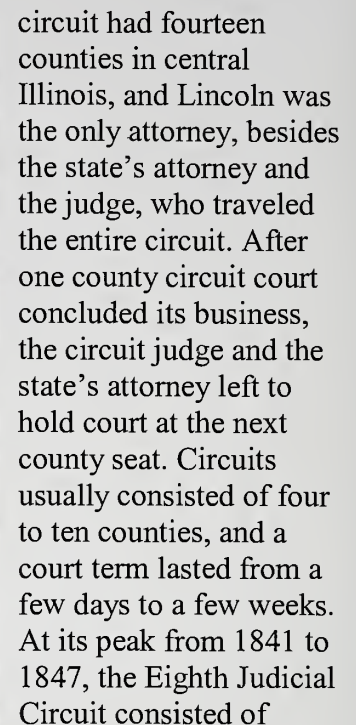
Abraham Lincoln, W. H. Herndon.
LINCOLN & HERNDON, Attornies and
Counsellors at Law, will practice in the Courts of
Law and Chancery in this State. Dec. 1847-54

Lincoln's return to Springfield in 1849, they continued to practice law in the smaller office. In 1852, they moved to the northwest side of the state capitol square on Fifth Street and remained there until Lincoln left Springfield in February 1861 to become president. Herndon mainly traveled to neighboring counties around Sangamon County. He maintained a large and steady practice in Menard County, which was northwest of Sangamon, even though it was not on the Eighth Circuit throughout most of the 1840s and 1850s.

Lincoln intensified his interest in law after returning from Congress in 1849. He continued to handle cases before the Illinois Supreme Court during the winter and before the federal court and the Sangamon County Circuit Court during the summer. Lincoln occasionally traveled to Chicago when the federal court held terms there in the 1850s. He interspersed regular court appearances with justice of the peace cases and nonlitigation activities.

On the Circuit

Lincoln was away from Springfield for nearly six months of the year, three months each spring and each fall riding the circuit. He had traveled the Eighth Judicial Circuit in the past but began to spend even more time on the circuit after his return from Congress. By 1849, the



Lincoln did not have any formal partnerships on the circuit. When he reached a county seat, local attorneys asked Lincoln to assist them with a case, or litigants themselves sought his services. Lincoln handled the business as it came to him. Generally, he chose neither clients nor co-counsels along partisan lines. In Macon County, Lincoln and Democrat Joel Seth Post argued fifteen cases together and opposed each other in fifteen cases. In Vermilion County, Lincoln and Ward Hill Lamon had a de facto partnership and advertised it in local newspapers. However, this arrangement did not prevent Lincoln from opposing Lamon in a few cases.

Lincoln maintained one of the largest appellate practices in the state. Attorneys living in counties far away from Springfield often referred their Illinois Supreme Court cases to Lincoln. His residence in the state capital helped him build a strong appellate practice. Lincoln continued to handle a large number of cases before the Illinois Supreme Court during the first few years of his partnership with Herndon. After 1849, the Illinois Supreme Court held court at three different locations—Ottawa, Springfield, and Mt. Vernon. Lincoln maintained his appellate practice in Springfield and occasionally traveled to Ottawa for a supreme court session. During his twenty-five-year law practice, Lincoln and his partners handled 411 cases before the state's highest court.

4 of 7

Lincoln did not practice exclusively in state courts and maintained a substantial practice in the federal courts in Illinois. The federal courts in Illinois generally ruled on disputes between citizens of different states. Out-of-state residents or businesses attempting to collect debts from Illinois residents often sued them in the federal courts if the amount in controversy exceeded \$500. In such cases, Lincoln represented out-of-state residents as often as Illinois residents. Clients from major commercial centers such as New York, Boston, St. Louis, and Philadelphia retained Lincoln to represent them in Illinois courts. Lincoln argued one case before the United States Supreme Court when he was in Congress in 1849, and served as the attorney of record in four more throughout the 1850s. Lincoln probably had a substantial practice before the federal courts, but the Chicago Fire of 1871 destroyed almost all of the Illinois federal records prior to 1855, so it is difficult to estimate the full extent of this aspect of his practice.

Types of Cases

Lincoln handled many different categories of litigation during his career. Debt-related issues filled the court system during the antebellum period, and the majority of Lincoln's legal cases consisted of debt collection. In this type of litigation, he represented both creditors and debtors. As plaintiff attorney for creditors, he won the majority of cases because many defendants failed to appear and defaulted. As defendant attorney for debtors, he lost the majority of cases because the legal system favored creditors over debtors. He also handled cases relating to land titles, inheritance, patents, and railroads.

In the 1850s, the Illinois legislature chartered railroads, and many of them began construction. These events increased litigation over issues of right of way, stock subscriptions, fencing, and damages to real property. Lincoln generally supported the development of railroads all over the state, but that did not prevent him from opposing the railroad companies in the courtroom. He became involved in railroad litigation and represented individuals nearly as often as railroad corporations. The Illinois Central Railroad secured his legal services more often than any other railroad, and Lincoln opposed them in only a few cases.

Office Practice

Lincoln's legal career did not consist solely of litigation. He maintained an office practice that included writing deeds, registering land, paying taxes, receiving money, and giving legal advice. Herndon had served in various capacities during his partnership with Lincoln as a deputy clerk for the Illinois Supreme Court and also as city attorney for Springfield. Lincoln and Herndon also maintained a law library in their office, and in one Illinois Supreme Court case, Lincoln loaned one of the law books from his office to the court for use in its opinion.

Legal Fees

According to entries in their fee book, Stuart and Lincoln generally received \$5 to \$10 for legal fees, but in *People v. Truett*, an 1838 murder case, they received \$500. Stuart and Lincoln generally divided fees equally. On average, Lincoln and Herndon charged a typical client \$5 to \$20. However, there were several occasions when Lincoln either charged his clients nothing or charged them a substantial amount. There are only a few years in which Lincoln and his partners documented legal fees. Lincoln was sometimes careless in obtaining payment, but in a few instances, Lincoln sued clients who had failed to pay him or sued

estates of clients to recover legal fees. Lincoln's federal practice probably supplied him with much of his income. A case could not be heard in the U. S. Circuit Court unless it involved a dispute exceeding \$500. As a result, Lincoln charged his federal clients higher fees. He probably charged clients less while practicing in the state circuit courts because disputes involved lesser amounts.

Political Life

Lincoln personally did not aspire to any judicial or legal offices. He often wrote letters of endorsement for friends who sought judgeships. When Judge David Davis of the Eighth Judicial Circuit had to leave court during a session, he appointed an attorney to sit as judge for a few cases or even for a few days. Davis asked Lincoln to act as judge several times in the 1850s. However, Lincoln was not the only person whom Davis appointed. Clifton Moore of De Witt County and Oliver L. Davis of Vermilion County substituted for Davis several times as well. Judge Charles Emerson of the neighboring Seventeenth Judicial Circuit often filled in for Davis. Lincoln never sought the position of state's attorney either, though he did assist David Campbell and Ward Hill Lamon, when these men served as state's attorneys on the Eighth Circuit. Lincoln wrote indictments, served as co-counsel to the state's attorney, or acted as state's attorney pro tem in several criminal cases.

During various times in his legal career, Lincoln suspended the practice of law in favor of his political career. During election years in the 1840s, Lincoln stumped for the Whig Party in various regions of the state. However, in a few instances, Lincoln combined his political and legal careers. For example, while campaigning for the Whigs in southern Illinois in 1840, he gave a political speech in Jefferson County and while court was in session argued a case in the Jefferson County Circuit Court. During his term in Congress, Lincoln did not handle any cases in Illinois but argued one case and became involved in two others before the United States Supreme Court. After losing the 1854 Senate election, Lincoln wrote to some clients in March 1855, that he had dabbled in politics and neglected business, and that since he had lost, he had to go back to work. During his 1858 Senatorial campaign against Stephen A. Douglas, Lincoln did not practice law for much of the summer and fall. After his loss, he returned to law but maintained active political correspondence, which eventually helped him garner support for the presidential election in 1860.

The Republican National Convention nominated Lincoln for president in May 1860. He continued to handle several cases during the summer term of the federal court in Springfield. It is unlikely that he represented any more clients after the summer. In November 1860, Lincoln won the election for the presidency over his political rival Stephen A. Douglas and two other candidates. During the winter, Lincoln wrapped up his legal business with Herndon, and left for Washington in February 1861. According to Herndon's biography of his famous law partner, Lincoln wanted the partnership sign to hang undisturbed and "give our clients to understand that the election of a President makes no change in the firm of Lincoln and Herndon." He told Herndon that if he returned he wanted to resume their practice of law "as if nothing had ever happened."

The LAWYER becomes the MARTYR

Lincoln's road to the presidency and his final resting place both ran through Bloomington

By Guy C. Fraker
FOR THE PANTAGRAPH

"Mr. Lincoln has been so well known personally by so large a number of our people, and has so long been regarded as one of our own citizens, that his death seemed to fall with the most crushing severity upon our inhabitants."

— The Daily Pantagraph,
April 18, 1865

Abraham Lincoln's legendary wont to help the underdog was demonstrated in the case of William de Fleurville, an African-American known as Billy the Barber.

A Bloomington subdivider conveyed four lots to Fleurville in exchange for his agreement to shave him for the rest of his life. Billy lost the deed without recording it.

On behalf of Billy, Lincoln sued the developers, who failed to appear, and the court ordered the defendants to convey the lot. Lincoln paid the court costs; he continued to pay the taxes over the years until he left Illinois to go to Washington.

These lots are between Main and Center streets on the south side of Locust Street. A mural of Billy and a Lincoln letter relevant to the lots is on the side of the building.

Another of Lincoln's associates at the Illinois bar was Reuben Benjamin, who was examined and certified by Lincoln for admission to the bar in 1856.



Our link
LINCOLN

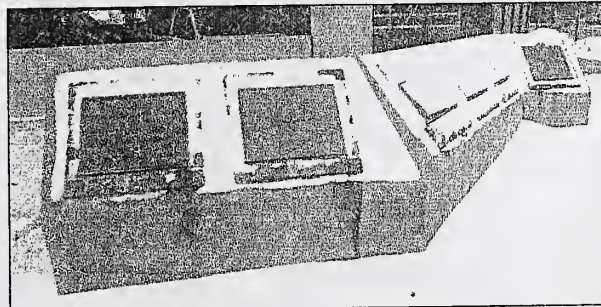
Last of
five par



Pantagraph file photo

Above: Lincoln gave his famous "Lost Speech" in Major's Hall on the corner of East and Front streets in Bloomington.

Right: A parking garage named for Lincoln and this marker now stand at the site.



The Pantagraph/MAUREEN O'CONNOR

SEE LINCOLN / BACK PAGE

THE PANTAGRAPH

VIEWPOINT

C

SECTION

SUNDAY

March 9, 2003

Benjamin was to become the first dean of the now-defunct law school at Illinois Wesleyan University. His home at 510 E. Grove St., visited often by Lincoln, was built by John Routt.

Routt was active in politics, eventually being elected county sheriff. After service in the Civil War, Routt became the territorial governor of Colorado. His image is enshrined in a stained glass window in the Senate chambers in the state Capitol in Colorado.

Another character who played an important political role in Lincoln's time in Bloomington was the sheriff, William McCullough. McCullough was born in 1812, moving with his father into Dry Grove, west of Bloomington, in 1826, where his father is said to have run a "house of entertainment."

McCullough served with courage in the Blackhawk War. In 1840, his arm was caught in a thresher and had to be amputated. As the doctor was nervously beginning his surgery, McCullough sat smoking and cautioned him to stay calm. He was an immensely popular politician, elected circuit clerk for four terms and sheriff for three.

Although he had but one arm, one good eye and was 49 years old, he prevailed upon Lincoln to get him a commission as a lieutenant colonel in the 4th Illinois Cavalry. He fought at Forts Henry and Donaldson, Shiloh and Corinth. He was killed covering a retreat at Coffeyville, Miss., on Dec. 5, 1862, when he refused a demand to surrender. Lincoln learned of the extraordinary grief of McCullough's daughter, Fannie, and wrote her a letter of condolence which stands among the classics of Lincoln literature.

Sue unto others

Throughout his career in Bloomington, Lincoln took business without demonstrating concern as to the identity of the opposing party. That was true in the Illinois Central Railroad tax case. He also had no qualms about suing the Illinois Central in 1854 and in 1855 for Martin Bishop, and Asahel Gridley represented the railroad.

Over the years, he represented James Allin Jr. on several cases. Nevertheless, he sued Allin on behalf of Alex Campbell in 1851. He took a case on behalf of a client named Burbank who was sued by

Gridley. Lincoln did work on behalf of Kersey Fell, Jesse Fell's brother. Nevertheless, in 1858 he sued Kersey Fell on a note on which he had defaulted on behalf of Orville Browning, the attorney from Quincy who would replace Stephen A. Douglas in the United States Senate after Douglas' death.

One of the curious things about Lincoln was that he, unlike so many of his contemporaries, did not speculate in real estate.

He did, however, purchase two lots in Bloomington at the northwest corner of Jefferson and McLean streets in 1852 for \$325, buying them from a cousin of Judge David Davis. He sold them in 1856 for \$400.

Because of its size and rise to prominence in the 1850s, Bloomington was also the site of important political appearances by Lincoln.

Return to politics

After his relatively unsuccessful term in Congress in 1847 and 1848, he returned vigorously to the practice of law, withdrawing from politics. This lasted until 1854, when Congress, led by Douglas, passed the Kansas-Nebraska Act, which many, including Lincoln, feared opened all new territories to slavery.

Lincoln returned to politics. That return was in part signaled by a speech he made in Bloomington on Sept. 12, 1854, when he spoke against the Kansas-Nebraska Act at the courthouse. The Pantagraph is the source for the content of this speech.

Two weeks later, he met Stephen A. Douglas at the National House, when Jesse Fell suggested a joint debate, which Douglas declined. Douglas spoke at the courthouse that day, and Lincoln responded in a speech that night.

Douglas had been state's attorney of the 1st Circuit, which included McLean County in 1834. He and Lincoln never met in the courts of McLean County, though Lincoln did bring a mortgage foreclosure action against Douglas in 1839, forcing the sale of real estate owned by him in Bloomington when Douglas defaulted on a note payable to Lincoln's client, James Allin Jr.

Among the more important speeches of Lincoln's career was one given in May 1856. A convention was called to be held on May 29, 1856, in Bloomington to consider fusing all the Illinois anti-slavery elements into one party.

The meeting was to be at Major's Hall, which was at the southwest corner of Front and East streets. Built by William Major, it was a

three-story building with retail space on the first floor, offices on the second floor and, typically, a large meeting hall on the top floor. This hall's third story was destroyed by fire in 1872. The hall was used for various purposes including the first classes of Illinois State University, as well as for the congregation of the Second Presbyterian Church for its first two years.

The 'Lost Speech'

Lincoln arrived in Bloomington on May 28, staying at the Davis home. That night, he addressed a crowd from the balcony of the Pike House. The next day, 270 delegates assembled including a number from Bloomington: Majors, Leonard Swett, Routt, James Ewing, Jesse Fell, Isaac Funk, Gridley, Charles P. Merriman, McCullough, William Orme and Judge John Scott.

A platform drafted by Orville Browning was adopted and a slate of officers was nominated. Then Lincoln was called upon to make the closing speech. Lincoln gave what all agreed was the best speech of his life.

There is no record of the speech, so it is known as "The Lost Speech."

One theory is that it was so inspiring that even the reporters forgot to write it down. The Pantagraph stated that, "Mr. Lincoln surpassed all others, even himself."

Lincoln urged that all who opposed the extension of slavery and stood for the preservation of the Union should unite. The Republican Party in Illinois was born, and Lincoln emerged as its leader. On two other occasions that same month, he spoke at Major's Hall.

In July 1858, Douglas arrived in Bloomington to make the second speech of the legendary senatorial campaign against Lincoln, who came to hear the speech. Lincoln went to the Pike House where Douglas was staying to pay his respects to Douglas and his wife. That night, Douglas spoke at the courthouse square. Lincoln was present on the platform, but declined to speak, promising to return later. He did this on Sept. 3, 1858, one week after the Freeport Debate, the second of the famed seven Lincoln-Douglas Debates.

The Pantagraph of Sept. 6 reports that a huge procession formed and went to the Davis home where Lincoln was staying to accompany him to the speech. The procession included several bands, McCullough, Ward Hill Lamon and Merriman. It went down

Washington Street to the courthouse where 7,000 people gath-

ered to hear Lincoln speak to the central issues of the campaign.

The story's headline stated, "The tall Sucker exposes the sophistries of the Little Giant."

Gov. Joe Fifer,

who in 1858 was a young man of 18, recalled 72 years later that, "there was something in the way he stated a proposition; there was something peculiar in his logic. There was a subtle influence in his personality. Every word he said, seemed to come from the fountain of truth and sincerity and it carried his audience with him. There are things that no scrivener can ever put on paper. ..."

Lincoln's next and last major political speech in Bloomington was made while attending his last circuit court session in the community on April 10, 1860, less than two months prior to his presidential nomination.

Some 1,200 to 1,500 people braved the rain and mud to jam into Phoenix Hall to hear this speech. A plaque now marks that site. The Pantagraph reported that, "Several of his home thrusts went through the sophisms and duplicities of the Shamocracy with damaging effect."

Last train leaving

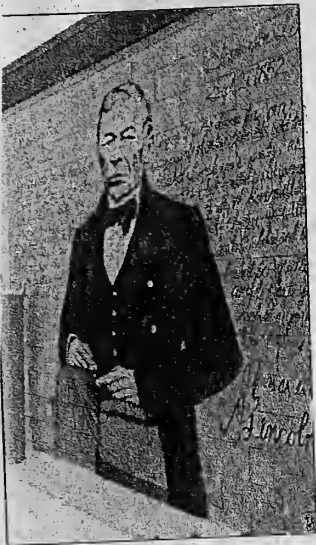
His last trip to Bloomington was on Nov. 21, 1860. The new president-elect took the Chicago & Alton Railroad to Chicago to meet his vice president, Hannibal Hamlin. The train stopped and he spoke briefly from the platform of the railcar. The train departed, and Lincoln was never to return to Bloomington.

When news of Lincoln's assassination reached Bloomington, the city, like the rest of the nation, was stunned, except this was the murder of a respected and admired friend.

An "Indignation Meeting," organized by local ministers, was held at the courthouse on Sunday, April 16. About 5,000 people gathered to mourn. Fell presided; Gridley and Swett were among the speakers that day. The Pantagraph's columns were edged in black.

A few weeks later, on May 3, 1865, the funeral train came to Bloomington from Chicago as it completed its long, deliberate passage from Washington to Springfield. The Pantagraph reporter rode the train from Chicago, where it left at 10 p.m. It was scheduled to arrive at 3 a.m. but did not arrive until 5 a.m. It was met in Bloomington by 8,000 people who turned out to pay their last respects to their revered, now martyred, friend.

Between 1838 and 1865, Bloomington had grown and evolved — so had Abraham Lincoln.



This mural, painted on the back wall at 626 N. Main St. in Bloomington, commemorates Lincoln's friendship with "Billy the Barber."

Our link to Lincoln



Guy C. Fraker of Bloomington is an attorney with a lifelong interest in history, the life of Abraham Lincoln in particular. In this five-part series for The Pantagraph, Fraker chronicles the importance McLean County, its people and businesses played in the life of Lincoln.

graph, Fraker chronicles the importance McLean County, its people and businesses played in the life of Lincoln.



The Pantagraph/MAUREEN O'CONNOR

The former home of Judge Reuben Benjamin still stands at 510 E. Grove St., in Bloomington. Benjamin was examined by Lincoln for admission to the Illinois Bar and later was the first dean of the now-defunct law school at Illinois Wesleyan University.

LINCOLN THE LAWYER

HIS LOW CHARGES MADE THE BAR COMPLAIN OF HIM.

How Ward Lamon First Met Mr. Lincoln and Then Became His Law Partner—Lincoln's Popularity on the Circuit—His Tender Conscience—Elected President.

My personal acquaintance with Mr. Lincoln dates back to the autumn of 1847. For reasons that will appear further on that acquaintance ripened into personal friendship and a professional and confidential intimacy which continued without jar or interruption during the succeeding eighteen years, forming by far the most valued treasure my memory holds to-day. Mr. Lincoln stood by me with unswerving fidelity in all my early struggles to obtain a footing at the bar; and to his wise counsel and unselfish friendship I am indebted for whatever measure of success I achieved in the most eventful years of my life. In 1849 I became his local partner, and that connection was never formally dissolved, but continued until he bade adieu to our clients and assumed the perilous burden of the Chief Magistracy.

In the fall of 1847, attracted by glowing accounts of material growth and progress in that part of the West, I left my home in what was then Berkeley county, Virginia, and settled at Danville, Vermillion county, Illinois. That county and Sangamon, including Springfield, the new capital of the State, were embraced in the Eighth Judicial Circuit which, at that early day, consisted of fourteen counties. It was then the habit of lawyers, like their brethren in England, "to ride the circuit." By that circumstance the people came in contact with, and were enabled to note the distinguishing traits of, all the lawyers in the circuit. I soon learned that the most celebrated, even in those pioneer days, for oddity, originality, wit, ability and eloquence, in that region of the State, was Abraham Lincoln. My great curiosity to see him was gratified soon after I took up my residence at Danville. I was introduced to Mr. Lincoln by Hon. John T. Stuart, for some years his partner at Springfield. After a comical survey of my fashionable toggery—my swallow-tail coat, white neck cloth and ruffled shirt, an astonishing outfit for a young limb of the law in that settlement—Mr. Lincoln said: "And so you are a cousin of our friend John J. Brown; he told me you were coming. Going to try your hand at the law, are you?"

HE LIKED TO SPLIT RAILS.

I was then a delicate, slender boy, still on the infant side of 21. John J. Brown was a noted lawyer and highly gitted as an orator. Mr. Lincoln continued: "I should know at a glance that you are a Virginian; but I don't think you would succeed at splitting rails. That was my occupation at your age, and I don't think I have taken as much pleasure in anything else from that day to this."

I assured him, perhaps as a sort of defence against the eloquent condemnation implied in my fashionable clasp-knife, that I had done a deal of hard manual labor in my time. Much amused at this solemn declaration Mr. Lincoln said: "O yes; you Virginians shed barrels of perspiration while standing off at a distance and superintending the work your slaves do for you. It is different with us. Here it is every fellow for himself or he don't get there."

Mr. Lincoln soon learned, however, that my detestation of that same system of slave labor was quite as pronounced as his own, and from that hour we were friends. I was his local partner, first at Danville, and afterwards at Bloomington. We rode the circuit together, travelling by buggy in the dry season and on horseback in bad weather, there being no railroads then in that part of the State. Mr. Lincoln was from the beginning of his circuit riding the light and life of the court, the bar and the people. He had

defeated the redoubtable champion of pioneer Methodism, Rev. Peter Cartwright, in the last race for Congress. Cartwright was an oddity in his way, quite as original as Lincoln himself. He was a foeman worthy of Spartan steel, and Mr. Lincoln's fame was greatly enhanced by his victory over the famous preacher. Whenever it was known that Lincoln was to make a speech or argue a case there was a general rush and a crowded house. It mattered little what subject he was to discuss; Lincoln was subject enough for the people. It was Lincoln they wanted to hear and see, and his progress around the circuit was marked by a constantly recurring series of ovations.

Although Mr. Lincoln was my senior by eighteen years, in one important particular, I certainly was, in a marvellous degree, his acknowledged superior. One of the first things I learned, after getting fairly under way as a lawyer, was to charge well for legal services—a branch of the practice that Mr. Lincoln never could learn. In fact, the lawyers of the circuit often complained that his fees were not at all commensurate with the service rendered. He at length left that branch of the business wholly to me; and to my tender mercy clients were turned over to be slaughtered according to my popular and more advanced ideas of the dignity of our profession. This soon led to serious and shocking embarrassment.

LINCOLN'S TENDER CONSCIENCE.

Early in our practice a gentleman named Scott placed in my hands a case of some importance. He had a demented sister who possessed property to the amount of \$10,000, mostly in cash. A conservator, as he was called, had been appointed to take charge of the estate, and we were employed to resist a motion to remove the conservator. A designing adventurer had become acquainted with the girl, knowing that she had money, and sought to marry her—hence the motion. Scott, the brother and conservator, before we entered upon the case insisted that I should fix the amount of the fee. I told him that it would be \$250, adding, however, that he had better wait; it might not give us much trouble, and in that event a lesser amount would do. He agreed at once to pay \$250, as he expected a hard contest over the motion. The case was tried inside of twenty minutes; our success was complete; Scott was satisfied and cheerfully paid over the money inside the bar, Mr. Lincoln looking on. Scott then went out and Mr. Lincoln asked, "What did you charge that man?" I told him \$250.

Said he: "Lamon, that is all wrong. The service was not worth that sum; give him back at least half of it."

I protested that the fee was fixed in advance; that Scott was perfectly satisfied and had so expressed himself.

"That may be," retorted Mr. Lincoln, with a look of distress and of undisguised displeasure; "but I am not satisfied. This is positively wrong. Go, call him back and return half the money at least, or I will not receive one cent of it for my share."

I did go, and Scott was astonished when I handed back half the fee. This conversation had attracted the attention of the lawyers and the court. Judge David Davis, then on our circuit bench, called Mr. Lincoln to him. The Judge never could whisper, but in this instance he probably did his best. At all events in attempting to whisper to Mr. Lincoln he trumpeted his rebuke in about these words, and in rasping tones that could be heard all over the court room: "Lincoln, I have been watching you and Lamon. You are impoverishing this bar by your peyano charges of fees, and the lawyers have reason to complain of you. You are now almost as poor as Lazarus, and if you don't make people pay you more for your services you will die as poor as Job's turkey!"

Judge O. L. Davis, the leading lawyer in that part of the State, promptly applauded this malediction from the bench; but Mr. Lincoln was immovable. "That money," said he, "comes out of the pocket of a poor demented girl; and I would rather starve than to swindle her in this manner."

That evening the lawyers got together and tried Mr. Lincoln before a moot tribunal called "The Ognathorial Court." He was found guilty and fined for his awful crime against the pockets of his brethren of the bar. The fine he paid with great good humor, and then kept the crowd of lawyers in uproarious laughter until after midnight. He persisted in his revolt, however, declaring that with his consent his firm should never

during its life, or after its dissolution, deserve the reputation enjoyed by those shining lights of the profession, "Catchem and Cheatem."

In many of the courts on the circuit Mr. Lincoln would be engaged on one side or the other of every case on the docket, and yet, owing to his low charges and the large amount of professional work he did for nothing, at the time he left Springfield for Washington to take the oath of office as President of the United States, he was not worth more than \$7,000, his property consisting of the house in which he had lived and eighty acres of land on the opposite side of the river from Omaha, Neb. This land he had entered with his bounty land warrant obtained for services in the Black Hawk war. Mr. Lincoln was always simple in his habits and tastes. He was economical in everything, and his wants were few. He was a good liver, and his family, though not extravagant, were much given to entertainments, and saw and enjoyed many ways of spending money not observable by him. After all his economy, and a long life of successful law practice, he was reduced to the necessity of borrowing money to defray expenses for the first months of his residence at the White House. The money

he repaid after receiving his salary as President for the first quarter.

BESET BY SPOILSMEN.

After Mr. Lincoln's election he was sorely beset by rival claimants for the spoils of office in his own State, and distracted by jealousies among his own party adherents. The State was divided, so far as the Republican party was concerned, into three cliques or factions. The Chicago faction was headed by Norman B. Judd and Ebenezer Peck, the Bloomington faction by Judge David Davis, Leonard Swett and others, and that of Springfield by J. K. Dubois, O. M. Hatch, William Butler and others; and however anxious Mr. Lincoln might be to honor his State by a Cabinet appointment, he was powerless to do so without incurring the hostility of the factions from which he could not make a selection. Harmony was, however, in a large measure preserved among the Republican politicians by sending Judd as Minister to Prussia, and by anticipating a place on the Supreme bench for Judge Davis. Swett wanted nothing, and middle Illinois was satisfied. Springfield controlled the lion's share of State patronage, and satisfaction was given all around as far as circumstances would allow.

Between the time of Mr. Lincoln's election and the 11th of February, 1861, he spent his time in a room in the State House which was assigned to him as an office. Young Mr. Nicolay, a very clever and competent clerk, was lent to him by the Secretary of State to do his writings. During this time he was overrun with visitors from all quarters of the country, some to assist in forming his Cabinet, some to direct how patronage should be distributed, others to beg for or demand personal advancement. So painstaking was he that every one of the many thousand letters which poured in upon him was read and promptly answered. The burden of the new and overwhelming labor came near prostrating him with serious illness. Some days before his departure for Washington he wrote to me at Bloomington that he desired to see me at once. I went to Springfield and Mr. Lincoln said to me: "On the 11th I go to Washington and I want you to go along with me. Our friends have already asked me to send you as Consul to Paris. You know I would cheerfully give you anything for which our friends may ask or you may desire, but it looks as if we may have war. In that case I want you with me. In fact, I must have you. So get yourself ready and come along. It will be handy to have you around. If there is to be a fight I want you to help me to do my share of it, as you have done in times past. You must go, and go to stay."

MR. LINCOLN'S GUARDIAN.

I did go, and at some personal sacrifice, as I then thought. I had been re-elected State's Attorney without opposition. The position was one of profit, but I cheerfully resigned it and accompanied my steadfast friend on a perilous mission. Whether it was fortunate or not that I stayed so long I know not; but it was certainly unfortunate—grievously so—that he was not permitted to stay longer. The first night after our departure from Springfield was spent in Indianapolis. Gov. Yates, Hon. O. H. Browning, Jesse K. Dubois, O. M. Hatch, Josiah Allen, of Indiana, and

others, after taking their leave of Mr. Lincoln to return to their respective homes, took me into a room, locked the door, and proceeded, in the most solemn and impressive manner, to instruct me as to my duties as the special guardian of Mr. Lincoln's person during the rest of his journey to Washington. The lesson was concluded by Uncle Jesse, as Mr. DuBois was commonly called, who said: "Now, Lamon, we have regarded you as the Tom Hyer of Illinois, with a Morrissey attachment. We entrust the sacred life of Mr. Lincoln in your keeping; and if you don't protect it, never return to Illinois, for we will murder you on sight."

With this amiable threat delivered in a jocular tone, but with a feeling of deep, ill-disguised alarm for the safety of the President-elect, in which they all shared, the door was unlocked and they took their leave. If I had been remiss in my duty toward Mr. Lincoln during that memorable journey I have no doubt those sturdy men would have made good some part of their threat. That I am now a living monument of their mercy I may infer from their generous acknowledgment that I did my duty in that emergency to the full extent of my ability.

WARD H. LAMON.

LINCOLN AS MAN AND AS LAWYER

His Virginia Ancestry—Dis- liked Manual Labor— Charged Railroad Large Fee and Had to Sue

Of writing books about "Honest Abe" there is as yet no end. With regard to the angles of approach chosen by Jesse W. Weik, it seems safe to suppose that his new book, entitled "The Real Lincoln," (Houghton Mifflin company, \$4), will stand as authoritative and final. It is a compilation and a study of material drawn from original sources bearing upon Lincoln's ancestry, his youth, his domestic life in Springfield, Ill., and, more especially, his career as a lawyer up to that momentous day in February, 1861, when he parted from his friends and neighbors and set out for Washington. It creates an impressive portrayal that throbs with realism.

Several years ago Mr Weik collaborated with the late William Henry Herndon, for 16 years Lincoln's close

associate in the partnership of Lincoln & Herndon, in preparing the most notable of Lincoln's biographies. The present volume carries the research then begun to careful completeness.

Giving his attention first to Lincoln's birth and descent, the author refutes numerous reports once current that Thomas Lincoln was not the president's father. In this connection, he recounts the interesting fact that Lincoln at one time confided to Herndon that he attributed his powers of analysis and logic, his mental activities, ambitions, to qualities inherited through his mother, Nancy Hanks, who was the illegitimate daughter of Lucy Hanks and a "well-bred Virginia planter."

In connection with the story of Lincoln's young manhood—his rail-splitting, backwoods days—the author takes pains to remind his readers that Lincoln was not at all fond of manual labor; that he avoided it whenever he decently could and gave it up altogether to push out for himself toward mental training as soon as his father's family was fairly established on an Illinois farm. Later, when he had a home of his own in Springfield, he found even light gardening in his back yard so distasteful that he never attempted it again after one season's half-hearted experience.

To the story of Lincoln's several proposals of marriage and his final marriage to Mary Todd, after mysteriously failing to appear on the date first set for the wedding, Mr Weik adds some original information. In addition to Ann Rutledge, Mary Owen and Mary Todd, the author relates that Lincoln proposed also to one Sarah Rickard, using in this latter appeal the argument that, "Because Sarah of Bible times became the wife of Abraham, therefore, she, Sarah Rickard, in view of that precedent, was foreordained to marry Abraham Lincoln."

An Ill-tempered Wife

"Of all the women to whom Lincoln paid serious attention," says Mr Weik, quoting Herndon, "Mary Todd was by far the strongest from an intellectual standpoint and the most ac-

complished generally. . . . She was also the only one whose keen vision penetrated the future and beheld in the homely face and awkward figure of her tall suitor the man of destiny." A sort of left-handed compliment accorded to Mrs Lincoln by some of her less charitable neighbors is cited to the effect that Lincoln's "success and political ascendancy were due more to the influence of his wife than to any other single agency; that her unrestrained temper, her willful and turbulent nature effectively deluged him from the full measure of domestic happiness—in other words, forced him out into the angry seas of politics and applause."

A host of other matters of "local color" and "human interest" fill the pages of "The Real Lincoln"—Lincoln's points of strength and weakness, his honesty, his fits of melancholy, his fame as a story-teller, his efforts as a lecturer and inventor, his huge enjoyment of Negro minstrels, his rise in politics, his lack of taste for liquor, his poor capacity for judging men and his apparent moral obtuseness in remaining loyal to a certain few unworthy friends he had appointed to political office. As the book draws its chief inspiration from the legal records of Lincoln & Herndon, however, it fittingly centers its interest in the main around Lincoln as a lawyer, touching with less detail on matters that have already been treated at length by many other biographers.

Delving into this phase of Lincoln's activities, Mr Weik found that "among

his colleagues at the bar and others equally competent to judge no two agreed in their estimate of his genius and ability." Some place him at the head of his profession. Others qualify their estimates.

Earnings as a Lawyer

According to Lincoln's partner, William H. Herndon, "although only moderately well read in the elementary books, he studied certain special and abstruse cases until he developed into a good practitioner. To that extent, therefore, it is fair to call him a case lawyer. Apparently he cared little for forms, rules of pleading or practice. He went in for substance mainly; but, in the end, became a good nisi prius lawyer and a better supreme court lawyer."

That Lincoln made only a modest living out of his legal practice may be seen from his record of fees charged for 152 cases as set down in the book of Lincoln & Herndon. The total is slightly over \$2,000 representing the receipts for three years. The smallest fee listed is \$2.00 and the largest \$100, while most of the charges range from five to \$25. And yet Lincoln could bring himself to charge a large fee on occasion, as is shown in connection with his experience as a railroad lawyer.

In one such instance, Lincoln was employed by the Central Illinois railroad company to press a suit for injunction against taxation of its property by McLean county contrary to exemptions granted by the Illinois Legislature. After appealing the adverse decision of the lower court, Lincoln finally carried the case to victory for the railroad in the state supreme court. It was then that he concluded that, for once in his life, he was entitled to a large fee, he asked the company to give him a particular section of land. This the road declined to do, and Lincoln forthwith rendered a bill for \$5000, less his retainer fee of \$200.

Sued Railroad for His Fee

This in turn the railroad company declined to pay, suggesting as a compromise that Lincoln bring suit against the company, agreeing to pay the fee demanded if, "by the testimony of other lawyers, it shall appear to

be a fair charge and there shall be a judgement for the amount." In compliance with this recommendation, Lincoln brought suit and his claim was approved as reasonable.

"The judgement was finally paid," as related by Herndon, "and Lincoln gave me my half. When he had pushed my share of the proceeds across the table to me, he covered it for an instant with his hand, smiled and said, 'Billy, it seems to me it will be in bad taste on your part to keep on saying the severe things I have heard from you about railroads and other corporations. The truth is, instead of criticizing them, you and I ought to thank God for letting this one fall in our hands.'"

Burning of Rock Island Bridge

This hostility toward the railroads, to which Lincoln thus referred in jest was a widely prevailing sentiment, being at that time instigated very largely by the river steamboat owners. They feared the invasion of this new competitor, and so there grew up a contest in which Lincoln later had another opportunity to champion the cause of the railroad pioneers when he was employed in the famous Rock Island bridge case of 1857. A steamer had run against the pier of the Mississippi river bridge owned by the Rock Island railroad and caught fire from an overturned stove. The flames from the steamer had in turn set fire to the bridge, and, while the structure burned, all nearby river steamers had tooted their whistles in shrieks of the wildest joy. "The result," we are told, "was a suit by the steamboat people against the owners of the bridge . . . on the ground that the bridge was an obstruction to navigation." The contest was bitter. "It required a cool head and an even temper to carry the day, and Lincoln was equal to the occasion." When the case was completed, the jurors failed to agree, and the court dismissed them, believing that they could never agree. Their vote stood: three for the plaintiffs and nine for Lincoln's railroad clients.

Big Roads Were Few

These momentous railroad cases did much to add to Lincoln's growing renown. In his legal career as a whole however, such cases were few and far between. At least half of each year he followed the crude nomadic life of the circuit rider. "While Herndon spent the greater part of his time in Springfield, in charge of the firm's local practice . . . Lincoln was out on the circuit beating the bushes for more business," and there was no part of his work as a lawyer in which Lincoln took any keener pleasure. Indeed, "he declined an offer to enter a promising, if not lucrative, law partnership in Chicago after the debates with Douglas because, as he contended, it would confine him to the office and thus keep him off the circuit."

"Seated in his one-horse buggy behind a sorry-looking animal, he would set out from Springfield to be gone for weeks at a stretch. The lawyers, as he drove to each successive town, eagerly anticipating a new stock of stories, were anxious to greet him, and the landlords, so we are told, hailed his coming with delight. He was one of those gentle uncomplaining beings whom the servants at the inns generally put off with the most indifferent accommodations. He said once he never so completely felt his own insignificance as when he stood face to face with a real live city hotel clerk."

Lincoln the Lawyer

By A Philadelphia Lawyer

It was strange how Mr. Lincoln became a lawyer. This was in 1837 after he came back to New Salem, Illinois, from the Black Hawk War, in which, by the way, far from killing any redskins, he actually prevented his troop slaughtering the only Indian they saw. He ran for office for the first time—for a seat in the Illinois Legislature—and finished seventh in a list of twelve after the votes were counted.

Without a job, he had to decide between learning blacksmithing or opening a store. Financed by friends, he chose the latter course and with a partner took over a small grocery in New Salem. Once, as a barefoot boy, Mr. Lincoln had been to court in Booneville, Indiana, had been mightily impressed by the florid oratory of a lawyer pleading a case there, and for a while entertained dreams of becoming a lawyer, too.

The grocery business was a poor one for Mr. Lincoln. Customers were few, and many an hour he was able to spend stretched out on the steps outside, watching the sun and the clouds. One day a man drove by headed westward in a covered wagon. Whether he needed money or only wanted to make space in the prairie schooner nobody knows, but he sold Mr. Lincoln a barrel. It was one of those infinitesimally small happenings that can, and sometimes do, change the course of history. Mr. Lincoln said afterward: "I didn't want it, but to oblige him I bought it, and paid him half a dollar for it." Emptying out the rubbish from the barrel, Mr. Lincoln found at the bottom a copy of Blackstone's "Commentaries on the Laws of England."

By accident, or luck, or whatever you want to call it, here was a Heaven-sent opportunity for Mr. Lincoln to learn the law, for in those days, Blackstone's "Commentaries" was the sine qua non for a young man studying law. Mr. Lincoln seized the opportunity.

Blackstone's "Commentaries" was a published version of the lectures delivered by Sir William at Oxford University in 1753. Laws, Sir William taught, derive their validity from their conformity to the so-called law of Nature or law of God. The objects of law are rights and wrongs. Rights are either rights of persons or rights of things. Wrongs are either public or private. These were the basic principles of law that Mr. Lincoln absorbed while waiting for customers to buy groceries in his fast-failing establishment in New Salem.

Mr. Lincoln grew to be a great lawyer. Had he not become President he would have been

one of America's greatest lawyers, might possibly have sat on the Supreme Court bench. And notwithstanding his failure at every other business or calling, he became financially quite a successful practitioner.

Mr. Lincoln was an honest lawyer, but he knew all the tricks of the other kind and showed them up. One time he was counsel for an old farmer named Case who had sold a plow and three yoke of oxen to two boys named Snow. The boys had no money so they gave Farmer Case notes for the plow and oxen. But they were under 21 when they signed the notes and their lawyer pleaded to the jury that since they were minors when they obligated themselves they could not be held for the debt.

When Mr. Lincoln's turn came to address the jurors, he said: "Gentlemen, these boys would never have tried to cheat old Farmer Case out of these oxen and that plow but for the advice of counsel. It was bad advice, bad in morals and bad in law. The law never sanctions cheating, and a lawyer must be very smart to twist it so that it will seem to do so. The judge will tell you what your own sense of justice has already told you, that these Snow boys cannot go back on their contract and also keep what the note was given for."

The jury gave a verdict for Mr. Lincoln's client without leaving their seats.

Much as Mr. Lincoln respected the law and lived by it, he was a great advocate of arbitration and settlement. Not many members of the Philadelphia bar have taken the trouble to notice it, but on the wall behind the bench in the courtroom of President Judge Charles Klein of the Orphans Court in City Hall there hangs a framed engrossed quotation. It bears repeating here:

"Discourage litigation. Persuade your neighbor to compromise whenever you can. Point out to him how the nominal winner is often a real loser in fees, expenses and waste of time. As a peace maker, the lawyer has a superior opportunity of being a good man. There will still be business enough . . ." The signature beneath this cogent advice to the legal profession is "A. Lincoln."

These words were written by the same hand that wrote "with malice towards none, with charity for all; with firmness in the right as God gives us to see the right . . ."

Mr. Lincoln, the lawyer, made the most of his own "superior opportunity of being a good man," and he left the world a much better place for his having lived in it.

LINCOLN AT THE BAR.

Personal Recollections of Hon. Leonard Swett.

During the eleven years I was with him at the bar of this state I never knew him to ask the advice of a friend about anything. During the four years of his administration I never knew and never heard of his doing this. I never knew him in the preparation of a trial, or the perplexity of it in court, to turn to his associate and ask his advice. The nearest I ever knew him to do this was once at Bloomington, in 1858, and about ten days before his joint debate with Douglas at Charleston. He sent for a half dozen lawyers to meet him at Judge Davis' house before he was to speak in Bloomington on the same day, and when they were assembled he said: "Gentlemen, I am going to put to Douglas the following questions, and the object of this meeting is to have each of you assume you are Douglas, and answer them from his standpoint."

And yet he was the best listener I have ever known. He would hear any one on any subject, and generally would say nothing in reply. He kept his own counsels or his bottom thoughts well. He weighed thoroughly his own positions, and the positions of his adversary. He put himself in his adversary's position or on the opposite side of a question, and argued the question from that standpoint.

I rode the Eighth judicial circuit with him

for eleven years, and in the allotment between him and the large Judge Davis, in the scanty provision of those times, as a rule, I slept with him. Beds were always too short, coffee in the morning burned or otherwise bad, food often indifferent, roads simply trails, streams without

bridges and often swollen and had to be swam, sloughs often muddy and almost impassable, and we had to help the horses when the wagon mired down with fence rails for pries, and yet I never heard Mr. Lincoln complain of anything. His character was that of great directness and extreme simplicity. Clothing to him was made for covering and warmth to the body, and not for ornament. He never in his life once got the better of his fellow man in a trade and never loaned money for interest. I never knew him but once to borrow money or give his note. He never tasted liquor, never chewed tobacco or smoked, but labored diligently in his profession, charging small fees, and was contented with small accumulations. He was, however, very generous in his expenditures for his family. In this manner he accumulated less than \$10,000 before his election to the presidency, and when he left Springfield had to borrow, and then, so far as I know, gave his note, for the first time, for



LEONARD SWETT.

enough to pay his expenses and tide him over until he could draw from the government the first quarter of his salary. He, in his life, lived in all circles, moved in every grade of society, and enjoyed it all equally well. To his present companions in every station he was equally entertaining and equally happy.

He was the most inquisitive man I have ever known. Traveling the circuit, he would perhaps sit with the driver and before we got to our journey's end he would know all the driver knew. If we stopped at a crossroad blacksmith shop he would sit by the blacksmith over his forge and learn how to make nails. Walking along the sidewalk of a country town he would see a new agricultural implement set out on the walk, he would stop and, before leaving, learn what it would do, how it would do it, and what it was an improvement upon. He is the only man I have ever known who bridged back from middle age to youth and learned to spell well. Mr. Lincoln's manuscripts are as free from mistakes as any college graduate's. I have seen him upon the circuit with a geometry or astronomy and other elementary books, learning in middle age what men ordinarily learn in youth.

I remember a scene I once witnessed at Barnett's Tavern, at Clinton, at a session of the circuit court. Lincoln had a geometry which he was carrying and studying in leisure moments. One time he was sitting on the sidewalk near the building and had just got the point of a nice demonstration of a proposition in his geometry, and, wanting some one to enjoy the point of the demonstration, he seized upon a hostler and explained to him the demonstration until the hostler said he understood it.

LINCOLN AND DOUGLAS AS LAWYERS.

The Hon. I. N. Arnold before the Illinois Bar Association.

No two men could be found more unlike, physically and intellectually, in manner, and in appearance, than they.

Lincoln was a very tall, spare man, six feet four inches in height, and would instantly be recognized as belonging to that type of tall, large-boned men, produced in the northern part of the Mississippi Valley, and exhibiting its peculiar characteristics in the most marked degree in Tennessee, Kentucky and Illinois.

In any court room in the United States, he would have been instantly picked out as a Western man. His stature, figure, dress, manner, voice and accent, indicate that he was of the Northwest.

In manner, he was always cordial and frank, and, although not without dignity, he made every person feel quite at ease. I think the first impression a stranger would get of him, whether in conversation, or by hearing him speak, was, that this is a kind, frank, sincere, genuine man; of transparent truthfulness and integrity; and before Lincoln had uttered many words, he would be impressed with his clear good sense, his remarkably simple, homely, but expressive Saxon language, and next by his wonderful wit and humor. Lincoln was more familiar with the bible than any other book in the language, and this was apparent, both from his style of his illustrations, so often taken from that book. He verified the maxim that it is better to know thoroughly a few good books than to read many.

Douglas was little more than five feet high, with a strong, broad chest and strongly marked features; his manners, also, were cordial, frank and hearty. The poorest and humblest found him friendly. He was, in his earlier years, half-fellow-well-met with the poorest man in the court-room.

Those of you who practiced law with him, or tried causes before him, when on the bench, will remember that it was not unusual to see him come off the bench, or leave his chair at the bar, and take a seat on the knee of a friend, and with one arm thrown familiarly around his friend's neck, have a friendly talk of a legal or political consultation. Such familiarity would have shocked our English cousins and disgusted our Boston brothers, and it has, I think, disappeared. In contrast with this familiarity of Douglas, I remember an anecdote illustrating Colonel Benton's idea of his own personal dignity. A distinguished member of congress, who was a great admirer of Benton, one day approached and slapped him, familiarly and rudely, on the shoulder. The senator haughtily drew himself up and said: "That is a familiarity, sir, I never permit my friends, much less a comparative stranger. Sir, it must not be repeated."

Lincoln and Douglas were, as we know, self-educated, and each the builder of his fortune. Each became very early the recognized leader of the political party to which he belonged. Douglas was bold, unflinching, impetuous, denunciatory and determined. He possessed, in an eminent degree, the qualities which create personal popularity, and he was the idol of his friends. Both Lincoln and Douglas were strong jury-lawyers. Lincoln, on the whole, was the strongest jury-lawyer we ever had in Illinois. Both were distinguished for their ability in seizing and bringing out, distinctly and clearly, the real points in a case. Both were very happy in the examination of witnesses; I think Lincoln the stronger of the two in cross-examination. He could make a jury laugh and, generally, weep, at his pleasure. Lincoln on the right side, and especially when injustice or fraud were to be exposed, was the strongest advocate. On the wrong side, or on the defence, where the accused was really guilty, the client, with Douglas for his advocate, would be more fortunate than with Lincoln.

Lincoln studied his cases thoroughly and exhaustively. Douglas had a wonderful faculty of extracting from his associates, from experts and others, by conversation, all they knew of a subject he was to discuss, and then making it so thoroughly his, that all seemed to have originated with himself. He so perfectly assimilated the ideas and knowledge of others, that all seemed to be his own, and all that went into his mind came out improved.

His ablest speech in the House was made on the 7th of January, 1844, on a bill to refund to General Jackson the fine imposed on him by Judge Hall during the defence of New Orleans. In this masterly argument he took the then bold and novel ground that the fine was imposed in accordance with law. It is a curious fact that, in his speech, Douglas claimed for General Jackson many of the war powers exercised by Lincoln and his generals during the rebellion, and for which he was so bitterly denounced by his political opponents. This speech gave him a national reputation. After the death of the hero of New Orleans, a pamphlet copy of the speech was found among his papers, with an indorsement in Jackson's handwriting, and signed by him, in these words: "This speech constitutes my defence. I lay it aside as an inheritance for my grandchildren."

Mr. Lincoln remained in active practice at the bar until his nomination for the presidency in 1860. His reputation as a lawyer and advocate was rising higher and higher. He had a large practice on the circuit all over the central part of this state, and he was employed in most of the important cases in the federal and supreme courts. He went on special retainers all over Illinois, and occasionally to St. Louis, Cincinnati, and Indiana. His law arguments addressed to the judges were always clear, vigorous and logical; seeking to convince rather by the application of principle, than by the citation of authorities and cases. On the whole, I always thought him relatively stronger before a jury than with the court. He was a quick and accurate reader of character, and understood, almost intuitively, the jury, witnesses, parties, and judges, and how best to address, convince, and influence them. He had a power of conciliating and impressing every one in his favor. A stranger coming into court, not knowing him, or anything about his case, listening to Lincoln a few minutes, would find himself involuntarily on his side, and wishing him success. His manner was so candid, so direct, the spectator was impressed that he was seeking only truth and justice. He excelled all I ever heard in the statement of his case. However complicated, he would disentangle it, and present the turning point in a way so clear and simple that all could understand. Indeed, his statement often rendered argument unnecessary, and often the court would stop him and say, "if that is the case, we will hear the other side." He had, in the highest possible degree, the art of persuasion and the power of conviction. His illustrations were often quaint and homely, but always clear and apt, and generally conclusive. He never misstated evidence, but stated clearly, and met fairly and squarely his opponent's case. His wit and humor, and inexhaustible stores of anecdote, always to the point, added immensely to his power as a jury advocate.

LINCOLN'S CARELESSNESS.

When Lincoln was postmaster of New Salem he used to tuck the letters inside his hat and deliver them whenever he happened to meet the persons to whom they were addressed. As this is a fair example of his business system, it may readily be imagined that the office of Stuart Lincoln was not a model establishment, where there was a place for everything and everything in its place. And it was not. Indeed, as a managing clerk the junior partner would have been a hopeless failure, and as an attorney, in the technical sense of the term, he would never have distinguished himself. He disliked everything connected with the drudgery of legal routine, hated drawing the declarations and pleas, despised the artificialities and refinements which were even then beginning to creep into the pleadings, and disregarded forms whenever it was possible to do so.

There was nothing mechanical, precise, or methodical about the man, and in all those housewifely virtues which characterized the careful, orderly, exact solicitor he was utterly deficient. He never knew where his papers were, and apparently the only attempt he ever made to better his disorder was to write on one of his bundles of papers which littered his desk, "When you can't find it anywhere else, look in this." But that was long after the firm of Stuart & Lincoln had dissolved, and even then we find him explaining to a correspondent that he had placed his letter inside an old hat and had thus neglected answering it, which shows he had not wholly outgrown the habit, of his post-office days. Indeed, his hat continued to be his favorite receptacle for papers as long as he lived, and he never acquired any sense of order.—From "Lincoln the Lawyer" in the February Century.

"TO WHOM IT MAY CONCERN."

A. LINCOLN,
Attorney and Counsellor at Law,
SPRINGFIELD, ILL.

TO WHOM IT MAY CONCERN—My old customers and others are no doubt aware of the terrible time I have had in crossing the stream, and will be glad to know that I will be back on the same side from which I started, on or before the 4TH OF MARCH next, when I will be ready to Swap Horses, Dispense Law, make Jokes, Split Rails, and perform other matters in a small way.

Lincoln Did Not Expect Re-election and issued the above card in 1864 just before his re-election, announcing his return to private practice of the law at Springfield, Ill. The underlines read: To whom it may concern—My old customers and others are no doubt aware of the terrible time I have had in crossing the stream, and will be glad to know that I will be back on the same side from which I started, on or before the 4th of March next, when I will be ready to Swap Horses, Dispense Law, make Jokes, Split Rails, and perform other matters in a small way.

Abraham Lincoln as a Lawyer

IN a paper read before the Kansas State Bar Association in 1897, but not hitherto given general circulation, Judge A. Bergen gives an account of Abraham Lincoln as he knew him and worked with him in the courtroom. There is much in Judge Bergen's paper, published in the *American Bar Association Journal* (Chicago) for June, that is of interest, even for those who are familiar, as are most Americans, with the public life of the great central figure in American history.

While waiting for a case to be called, Judge Bergen says Lincoln once sat for two hours—

With his head thrown back, his steady gaze apparently fixed on one spot of the blank ceiling, without the least change in the direction of his dull expressionless eyes, and without noticing anything transpiring around him and without any variation of feature. I suppose he was thinking of his coming case. Herndon says he was capable of longer continued, concentrated, vigorous thought upon one subject than any other man. His expression was of the deepest melancholy. . . .

But whenever he began to talk his eyes flashed and every facial movement helped express his idea and feeling. . . .

To the judges and lawyers who were associated with him in his more than twenty years of practicing, his most noticeable characteristics were an extraordinary faculty for correct reasoning, logic, and analysis, his clear, full, orderly stating of the case—"so fair and so perspicuous that it was often said that after Lincoln had made his statement there was but little occasion for argument on either side."

He was almost infallible in detecting falsehood in fact, defective logic, or fallacious argument in his opponent. He thought much, but read comparatively little other than standard books of reference on the law. He cited few authorities, as a rule, depending rather upon his deep knowledge of legal principles and their application to fact. Judges who knew him in the courts were far more apt to decide the case upon its merits as propounded by Lincoln than upon doubtful precedent painfully established from other cases by the opposing lawyer.

By some habitual litigants and the like, Lincoln was referred to as a third-rate lawyer: he could not make black look white. If he was led into taking a client, of the justness of whose cause he was not convinced he appeared weak, spiritless and destitute of resources.

If he was satisfied that his client was in the right, he had buoyant, dominant courage, an irresistible manner, unflinching tact and—as Judge Bergen clearly demonstrates by several anecdotes—he had a true sense of the dramatic, with a telling card always up his sleeve.

William H. Herndon, who was associated with Lincoln, following Lincoln's partnership with Judge Logan, in his biography stresses nothing so much as Lincoln's love of truth: "To him it was reason's food." He was an "honest lawyer."

It is quite easy to believe that if Lincoln had not been a good lawyer he would not have attained political leadership.

Lincoln, The Lawyer

1. His Choice of a Profession.

- a. In litigation in Indiana.
- b. Read the statutes of Indiana as his first law book.
- c. Decided to study law in 1834 after first considering becoming a blacksmith.
- d. Fearful he could not prepare himself for law.
- e. Secured Blackstone's Commentaries.
- f. He had no formal legal education.

2. Early Law Partners.

- a. Moved to Springfield, Ill. in 1837 and became a law partner of Stuart who was largely responsible for his studying law.
- b. In 1841 he entered a law partnership with Logan.
- c. His third and last partnership, in which he was the senior partner, was with Herndon.

3. Successful Practitioner.

4. Big Cases and Big Men.

5. The Circuit Rider.

Note - These last three points can be developed by reading "Lincoln The Lawyer" by Frederick Trevor Hill in your public library.

LINCOLN AND LAW.

The hour is opportune for a Lincoln renaissance, a revival of his letters, a return to the principles for which he lived and died, the integrity of the Constitution, equality before the law, religious tolerance, racial amity, industrial and social justice, sound money, a "lasting peace among ourselves and with all nations", national preparedness, and the solution of every problem "with malice toward none and charity for all, and with firmness in the right as God gives us to see the right." (From address by Dr. J. W. Hill, Los A. 1936)

Carl Schurz said: "It was not surprising that the mere appearance of so conscientious an attorney (as Lincoln) in any case should have carried not only to juries but even to judges the presumption that he was in the right."

The real secret of Lincoln's success, if it can be designated as a secret, was his blunt good humor, flat-footed, square-toed, unyielding moral character.

No one ever doubted the honesty of Lincoln. Those who saw his practice could not doubt it. He would not take a bad case if he knew it. He often persuaded a fair-minded client of the injustice of his case and induced him to give it up.

He said to a proposed client: "I reckon I can gain your suit. I can set a whole neighborhood at loggerheads. I can distress a widowed mother and six fatherless children, and thereby get for you the \$600. which rightfully belongs to them. No! No! I shall not take your case, but I will give you a little advice for nothing. I would advise you to try your hand at making \$600, some other way."

In his notes for a law lecture Lincoln said: "Discourage litigation. Persuade your neighbors to compromise whenever you can. As a peacemaker, the lawyer has a superior opportunity of being a good man. There will still be business enough." "There is a vague popular belief that lawyers are necessarily dishonest. *** Let no young man choosing the law for a calling for a moment yield to the popular belief. Resolve to be honest at all events; and if, in your own judgment, you cannot be an honest lawyer, resolve to be honest without being a lawyer. Choose some other occupation, rather than one in the choosing of which you do, in advance, consent to be a knave."

In his Lyceum address at Springfield, Lincoln urged: "Let every American, every lover of Liberty everywhere swear to posterity never to violate in the least particular the laws of his country, and never to tolerate their violation by others. As the patriots of seventy-six did to the support of the Declaration of Independence, so to the support of the Constitution and laws let every American pledge his life, his property, and his sacred honor - let every man remember that to violate the law is to trample on the blood of his father, and to tear the charter of his own and his children's liberty. Let reverence for the laws be breathed by every American mother to the lisping babe that prattles on her lap; let it be taught in schools, in seminaries, and in colleges; let it be written in primers, spelling books, and in almanacs; let it be preached from the pulpit, proclaimed in legislative halls, and enforced in courts of justice. And, in short, let it become the political religion of the nation; and let the old and young, the rich and the poor, the grave and the gay of all sexes and tongues and colors, and conditions, sacrifice unceasingly upon its altars. While ever such a state of feeling as this shall universally or even very generally prevail throughout the nation, vain will be every effort, and fruitless every attempt, to subvert our national freedom."

LINCOLN ADMITTED TO BAR SAME YEAR HE CAME TO SPRINGFIELD; PRACTICED UNTIL NOMINATION

Abraham Lincoln was admitted to the bar in the spring of 1837 and his association with the Sangamon county bar, then in its second decade since the county's organization in 1821, dated from his moving to Springfield from New Salem on April 15, 1837, until he left in 1861 to become President of the United States.

Illinois had been divided into four circuit court districts since its organization as a state in 1818, and by an act approved Feb. 11, 1821, Sangamon county, together with St. Clair, Madison, Greene, Pike and Montgomery, were constituted the first judicial circuit, and it was in this circuit of law courts that Lincoln became known and loved by Illinois citizens.

Lincoln had come to New Salem in the spring of 1831 as a flat boat hand for Denton Offut, and in 1832 he announced himself a candidate from Sangamon county for the state legislature shortly before he served in the Black Hawk war. He returned two weeks before the election and was defeated, but carrying his own precinct with 277 votes out of 300.

After his defeat he was fired with the ambition to study law and he embraced every available opportunity for study and sought conversation with men of higher education on such subjects as politics, slavery, government and literature. During this time he kept a store and this business venture ended in failure, Lincoln assuming the obligation of unpaid notes when his partner, John Berry, died two years after Lincoln had sold out to him.

Borrowed Law Books

On May 7, 1833, Lincoln was appointed postmaster, which position he held until the postoffice was moved into Petersburg in 1836, and in the fall of 1833 he was appointed deputy surveyor. He was elected to the legislature in 1834 and again for a second term in 1836. During all his time he devoted every spare moment to the study of law, walking

the 20 miles from New Salem to Springfield to borrow books from the law library of Major John T. Stuart.

When convinced that he could stand an examination, Lincoln now 27 years old presented himself for that purpose and was duly licensed to practice his profession in April of 1837, moving immediately to Springfield and entering a partnership with Stuart.

Stephen A. Douglas, who was then about 23 years old, became a citizen of Springfield in the same year as Lincoln and the rivalry of these two great men began.

In addition to Lincoln, Douglas and Stuart, other members of the bar during that decade included James Shields, Stephen T. Logan, John T. Stuart, Edward Jones, Dan Stone, Samuel H. Treat, Ninian W. Edwards, J. D. Baker, Cryus Walker, Jesse B. Thomas, Edward J. Philips, Henry E. Drummer, William L. May, Josephus Hewitt, Charles Emerson, David Prickett, Jesse B. Thomas, D. B. Campbell, John D. Urquhart, John C. Doremus, James C. Conkling, Charles R. Wells, Schuyler Strong, B. S. Edwards and W. J. Gatewood.

In 1839 a new judicial circuit, numbered the eighth, was formed to comprise the counties of Sangamon, McLean, Macon, Tazewell, Menard, Logan, Dane (now Christian) and Livingston, and Lincoln and Douglas rode this circuit also.

A contemporary attorney of these two men, who were totally unlike in manners and in appearance, physically and intellectually, describes them thus:

"Lincoln was a very tall, spare man, six feet four inches in height, and would be instantly recognized as belonging to that type of tall, large-boned men produced in the northern part of the Mississippi valley, and exhibiting its peculiar characteristics in the most marked degree in Tennessee, Kentucky and Illinois. In any court room in the United States he

possessed, in an eminent degree, the qualities which create personal popularity, and he was the idol of his friends. Both Lincoln and Douglas were strong jury lawyers, Lincoln probably the strongest jury lawyer Illinois has ever known.

Both were distinguished for their ability in seizing and bringing out clearly the real points in a case; both were very happy in the examination of witnesses. Lincoln could compel a witness to tell the truth when it meant to lie. He could make a jury laugh, or weep at his pleasure. Lincoln was the strongest advocate when he was on the right side and injustice or fraud were to be exposed; but when the client was really guilty, Lincoln was safest with Douglas as his advocate.

According to a description of the two men given by Isaac N. Arnold, a local attorney who practiced with them in later years, Lincoln studied his cases thoroughly and exhaustively, but Douglas had a wonderful faculty of extracting from his associates all they knew of the subject he was to discuss, and so perfectly assimilating the idea and knowledge of others that all seemed to be his own.

Douglas was elected one of the judges of the supreme court in 1841 when he was not quite 28 years old and in two years was elected to congress. Serving in the house until 1846, and then elected to the senate and serving here until he died in the early summer of 1861, shortly after his friend and former law and political rival became president.

Active Lawyer Until Nomination

Lincoln remained in active law practice until his nomination for the presidency in 1860. His reputation as a lawyer and advocate rose higher and higher, and he had a large practice on the circuit over the entire central part of the state and was employed in most of the important cases in the federal and supreme courts. He went on special retainers all over Illinois, and occasionally to St. Louis, Cincinnati and Indiana. His law arguments addressed to the judges were always clear, vigorous and logical; seeking to convince rather by the application of principle than by the citation of authorities and cases.

It is said that Lincoln was a quiet and accurate reader of character, and

would have been instantly picked out as a Western man. His stature, figure, dress, manner, voice and accent indicated that he was of the north-west.

"In manner he was always cordial and frank, and although not without dignity, he made every person feel quite at ease. I think the first impression a stranger would get of him, whether in conversation or by hearing him speak, was, that this is a kind, frank, sincere, genuine man, of transparent truthfulness and integrity; and before Lincoln had uttered many words, he would be impressed with his clear good sense, his remarkably simple, homely, but expressive Saxon language, and next his wonderful wit and humor. Lincoln was more familiar with the Bible than with any other book in the language, and this was apparent, both from his style and illustrations, so often taken from that Book. He verified the maxim, that it is better to know thoroughly a few good books than to read many".

Douglas Short, Stocky

"Douglas was little more than five feet high, with a strong, broad chest and strongly marked features; his manners, also were cordial, frank and hearty. The poorest and humblest found him friendly. He was, in his earlier years, hale fellow well met with the rudest and poorest man in the court room".

"To those who practiced law with Douglas it was not unusual to see Douglas come off the bench, or leave his chair at the bar, and take a seat on the knee of a friend, and with one arm thrown familiarly around the friend's neck, have a friendly talk or legal or political discussion."

Lincoln and Douglas both were self-educated and each the builder of his own fortune. Each early became the recognized leader of the political party to which he belonged. Douglas was bold, unflinching, impetuous, denunciatory and determined. He understood, almost intuitively, the jury, witnesses, parties and judges, and how best to address and influence them. He had the power of conciliating and impressing everyone in his favor. A stranger coming into court, not knowing him, or anything about the case, would listen to Lincoln for a few minutes and find himself involuntarily on his side and wishing him success.

No matter how complicated the case would be, Lincoln could disentangle it and present the turning point in a way so simple and clear that all could understand. His statement often rendered argument unnecessary, and often the court would stop him and say, "If that is the case, we will hear the other side". His illustrations were often quaint and homely, but always clear and generally conclusive. He never misstated evidence, but stated clearly, and met fairly and squarely his opponent's case. His wit and humor and inexhaustible stores of anecdote, always to the point, added immensely to his power as a jury advocate.

The last case Abraham Lincoln ever tried was that of Jones vs. Johnson, tried in April and May, 1860, in the United States circuit court at Chicago. The case involved the title to land of very great value on the shores of Lake Michigan.

In addition to his first law partner, John T. Stuart, Lincoln was a partner of Judge Stephen T. Logan from 1841 to 1843, and of William H. Herndon from 1843 to 1865. When Lincoln left for the White House it is said he asked Herndon to allow his name to remain on the sign over their law office. With tears in his eyes, Herndon replied, "Mr. Lincoln. I will never have any other partner while you live". And until Lincoln's assassination, business was conducted under the name of "Lincoln and Herndon".

Much of London's water supply is drawn from a great lake underlying the chalk bed on which the city is built.

To a man who once offered him a case the merits of which he did not appreciate he made, according to his partner, Mr Herndon, the following response:

" Yes, there is no reasonable doubt that I can gain your case for you. I can set a whole neighborhood at loggerheads; I can distress a widowed mother and her six fatherless children, and thereby get for you six hundred dollars which rightly belong, it appears to me, as much to them as it does to you. I shall not take your case, but I will give you a little advice for nothing. You seem a sprightly, energetic man. I would advise you to try your hand at making six hundred dollars in some other way."

MANY FAMOUS FIGURES FROM SANGAMON BAR

Organization's History Dates To 1821.

Sangamon county's bar association for years has been the starting point of the public life of many figures destined to become of national prominence and importance.

During the 110 years of the organization's history it has not been uncommon for members to advance to positions such as the governor's chair, justice of the supreme court, representatives in the national government or other influential posts at Washington. President Abraham Lincoln was a member of the Sangamon bar.

Among members whose names appear on Sangamon court dockets during the first decade of the county's history, 1821-1831, were such men as William S. Hamilton, son of Alexander Hamilton, secretary of the treasury under President Washington; John Reynolds, afterwards governor of the state; Samuel D. Lockwood, later supreme court justice; Stephen T. Logan, judge of a circuit which consisted of about one-fourth of the state.

Samuel H. Treat, later named first judge of the federal district of southern Illinois; Stephen A. Douglas, associated in history with Lincoln.

Graham Prepares History.

James M. Graham, 413 South Seventh street, who joined the Sangamon county bar in 1885, recently completed a history of the organization which is to be printed in pamphlet form. Mr. Graham pointed out in his history many of the leading personalities as research disclosed them prior to his arrival and as he remembers them during his many years of activities here.

Judge Nathaniel Pope, who was territorial delegate in congress when Illinois was admitted to the Union in 1818, was made first federal judge. His district was the entire state. Prior to his appointment as judge, however, Judge Pope rendered a valuable service to the state by securing a shift of the northern boundary of Illinois from the southern tip of Lake Michigan to its present location, about 60 miles north. This service has been recognized of priceless value to the state in giving it access to the lake and is considered to have been of some consequence to the nation.

Judge Pope held the federal bench until his death in 1850. Judge Thomas Drummond was named his successor. He came to Illinois from Maine in 1835. Judge Drummond presided over the district of Illinois until 1855, when it was divided into two districts.

48 Years' Service.

Judge Samuel S. Treat was appointed judge of the southern Illinois federal district while Judge Drummond took over the northern district

court bench, fourteen years as justice of the state supreme court and thirty-two years as federal district judge, making a continuous judicial service of forty-eight years.

Judge William J. Allen succeeded Judge Treat. Judge Allen at one time was district attorney and also a partner of Gen. John A. Logan. Judge J. Otis Humphrey followed Judge Allen to the bench. Judge Humphrey was president of the Lincoln Centennial association from its origin to his death. Judge Louis FitzHenry succeeded Judge Humphrey.

Among judges who have served on the circuit bench are John Reynolds, John Y. Sawyer, Samuel Lockwood, Stephen T. Logan, Jesse B. Thomas, Samuel H. Treat, David Davis, E. Y. Rice, Benjamin S. Edwards, Gen. John A. McClelland, Charles S. Zane, William Vandever, Judge Welch, William L. Gross, Jesse Phillips, Jacob Fouke, Robert B. Shirley and James A. Creighton. Judge Charles G. Briggles is now presiding.

Sangamon Barristers.

Prominent among Sangamon barristers were:

Joseph Wallace, brother-in-law of Lincoln, author of "Illinois And Louisiana Under French Rule."

John T. Stuart and William H. Herndon, Lincoln's law partners.

Charles A. Keyes, master-in-chancery and law partner of Gen. John A. McClelland.

James C. Conkling, father of Clinton L. Conkling, postmaster after retiring from the practice of law.

Ralph W. Haynes, who later accepted a government post at Washington.

Wiley E. Jones, who served a term in the legislature and went to Arizona where he became attorney general. He died there a few years ago.

Charles E. Selby, who served in the general assembly.

W. A. Northcott, three terms state's attorney in Bond county, lieutenant governor of the state and head of the Modern Woodmen of America.

Others were John A. Logan, James C. Robinson, Gen. Alfred Orendorff, Maj. Samuel D. Scholes, Judge Thomas S. Casey, James A. Creighton, James W. Patton, Lloyd F. Hamilton, Robert H. Patton, Milton Hay, C. C. Brown, S. P. Wheeler, James H. Matheny, sr., John C. Snigg, Andrew J. Lester and E. S. Robinson.

Distinguished Civil war records were made by Maj. Gen. John M. Palmer, Maj. Gen. John A. McClelland, Col. James H. Matheny, Col. William L. Gross, Col. Thomas C. Casey, Maj. James A. Connolly, Maj. Bluford Wilson, Maj. Samuel D. Scholes and Maj. Alfred Orendorff. The most distinguished record, however, is by popular approval accorded Abraham Lincoln, commander-in-chief of the army and navy.

Mr. Graham in closing his history of the bar said, "The true representative of the legal profession will never forget that, after all, his proper function is to aid the court in the administration of justice. There can be no higher duty cast on the citizen than the duty cast on the lawyer to aid the court. To that duty, I trust, the members of the Sangamon County Bar will ever prove true."

Lincoln Day Recalls History Which Is Always Illuminated By Lincoln's Sense Of Humor

AN ILLUMINATING, if not amusing, bit of history appropriate to Lincoln Day



in Springfield (tomorrow, February 12) is supplied by Dr. Harry E. Pratt, Secretary of the Abraham Lincoln Association.

Dr. Pratt very graciously called my attention to the last edition of the Illinois Bar Journal in which, under his name, is a very interesting story relative to "Lincoln and the Bankruptcy Law."

It throws light on the colorful days of rivalry in the Gay Forties, between what Dr. Pratt refers to as the "Democratic Illinois State Register," and the "Whig Sangamo Journal," more familiarly known as the Illinois State Journal.

At that time Abraham Lincoln was law partner of Stephen T. Logan under the firm name of "Logan & Lincoln" (1841-1844).

Stephen T. Logan was a great power in development of the career of Mr. Lincoln. The late Senator Logan Hay was a grandson of Stephen T. Logan, as is Logan Coleman of the Illinois National Bank. Mr. Hay and Mr. Coleman were cousins. Their mothers were daughters of Stephen T. Logan.

The Bar Journal reproduces pictures of Lincoln and Logan of that day. Stalwart, purposeful souls they were, indeed.

DISTINGUISHED GENTLEMEN of that day, they certainly were not novices in the gay and festive game of politics. In fact, they were experts.

The Whigs and Democrats clutched at one another's throats, so to speak, over a bankruptcy law passed by Congress in the Summer of 1841.

The Whigs, according to Harry Pratt, did a neat job of forcing enactment of the bankruptcy law which produced some juicy fee plums for certain favored publications and the lawyers of that day. History shows that Logan & Lincoln handled and profited from more bankruptcy cases than any other Springfield law firm.

Everything was lawful and on the up-and-up, of course, but "Judge Nathaniel Pope of the U. S. District Court, Springfield, decided that all notices should be published in the Whig Sangamo Journal in preference to the Democratic Illinois State Register." Dr. Pratt goes on to say:

"The Register, which had previously been guarded in its opposition to the bankruptcy law, now bitterly assailed it and continued its opposition until the repeal of the law."

DR. PRATT CLOSES his interesting story, saying that Mr. Lincoln's emphasis upon the necessity of having court fees in hand before they proceeded in a case is stated by him in a humorous but pointed letter to Frederick A. Thomas, a Lawrenceville attorney. On April 21, 1841, Lincoln wrote:

"One thing bear constantly in mind; that is, that unless I am furnished with money to pay costs as the case progresses I cannot move an inch—and State Bank paper will not do, at that. The whole cost, exclusive of lawyers' fees, will be, as we think, about \$20 in something at least as good as Shawnee."

By "Shawnee," Mr. Lincoln facetiously referred to an account rendered in which he mentions certain State Bank cash credits and credit in Shawneetown. This was characteristic of Mr. Lincoln's subtle delight in injecting a smile into anything he said or wrote.

THE LOGAN & LINCOLN law offices were on the third floor of the old Tinsley Building, which is still standing at the southwest corner of Sixth and Adams Streets, immediately opposite Roland's store and diagonally across from Sam Barker's establishment. The old Tinsley Building was erected in 1837. Logan & Lincoln occupied that third floor from the period of 1841 to 1843, as is set forth on a large copper plaque near the Sixth Street entrance to the stairway leading to the second and third floors.

The third floor is now occupied by S. J. and Murray S. Hanes, architects. They occupied that floor in 1894 and will have been there a half century next year. Murray Hanes says he has the same table which Lincoln used and against which he leaned when delivering his famous address set to the theme, "A house divided against itself cannot stand."

Youth's Companion.

"Yes, we can doubtless gain your case for you," said Abraham Lincoln to a man anxious to retain him; "we can set a whole neighborhood at loggerheads; we can distress a widowed mother and her six fatherless children and thereby get for you six hundred dollars to which you seem to have a legal claim, but which rightfully belongs, it appears to me, to the woman and her children."

"You must remember," continued Mr. Lincoln, "that some things legally right are not morally right. We shall not take your case, but will give you a little advice for which we will charge you nothing. You seem to be a sprightly, energetic man, we would advise you to try your hand at making six hundred dollars in some other way."

Mr. Herndon, for twenty years Mr. Lincoln's law partner, and now his biographer, says that he once wrote to one of their clients, "I do not think there is the least use of doing anything more with your lawsuit. I not only do not think you are sure to gain it, but I do think you are sure to lose it. Therefore the sooner it ends the better."

"I see that you've been suing some of my clients, and I've come down to talk with you about it," he said one day to a lawyer, who had brought suit to enforce the specific performance of a contract.

Upon seeing the evidence to be presented, Mr. Lincoln said, "Your client is justly entitled to a decree, and I shall so represent it to the court; for it is against my principles to contest a clear matter of right." Some lawyers would have contested the case until the value of the farm was consumed by the costs of litigation.

Mr. Lincoln was a great lawyer when convinced of the justice of the cause he advocated. In trying a case, where most lawyers would object he would say he "reckoned" it would be fair to admit the truth to be so-and-so. When he did object to the court, and he heard his objection answered, he would say, "Well, I reckon I must be wrong."

But when the case ended, says one of Mr. Lincoln's colleagues at the bar, the adversary would see that what Mr. Lincoln had been so blaudly giving away was simply what he could not keep. He might yield six points, but by adhering to the seventh, on which the whole case rested, he retained everything that would help win the cause.

★ TWO MINUTE STORY ★



At one time in his illustrious career, Abraham Lincoln was a young struggling lawyer in Springfield, Illinois, having a mighty hard time to make both ends meet. Yet, withal, kindhearted, gentle, wise, witty.

Abe had purchased some lawbooks from a large Boston publishing company and, after a good many payments, had cleaned up his indebtedness. The Boston publishing house was so sure of his honesty, he was repeatedly petitioned to buy more books.

Now, it happened about this time that another lawyer came to start practicing in Springfield.

It seems this new arrival was rather of the shyster variety and not well thought of by the community at large.

Upon hearing that Abe had purchased a law library on time payments, this lawyer secured the name of Abe's publisher, and wrote him, requesting shipment of a set of lawbooks, to be paid for by time payments.



Abe Lincoln

As a natural thing in the course of business, the Boston publisher wrote to Abe, making inquiry about the new customer, and here is the authentic letter "Honest Abe" wrote to him:

Gentlemen:

The party you inquire about has a small office on the third floor of one of our office buildings.

He has a pasteboard sign tacked on the first pair of stairs.

He has a pasteboard sign tacked on the second pair of stairs.

He has a pasteboard sign tacked on the third pair of stairs.

He has a pasteboard sign tacked on his office door.

In his office he has:

1 box he sits on.

1 box he writes on.

1 box he spits in.

Over in one corner there is a large rat-hole *that will bear looking into.*

—William Bradford Dickson.

Have you a Two-Minute Story? Liberty will pay top rates for good ones. Address: Two-Minute Man, Liberty, 122 East 42nd Street, New York, N. Y. Manuscripts will not be returned unless accompanied by a stamped, self-addressed envelope, nor can we enter into correspondence regarding them.

ne Preacher of the Word re-told that wonderful story of Abraham Lincoln's defense of the fifteen-year-old boy charged with murder. With dramatic fervor he described Lincoln's vicarious act in losing the election, possibly because he did not fill his congressional campaign speaking engagement, in order to act as counsel for the poor, untutored and friendless farm boy.

There is perhaps no story even in the Scriptures that illustrates the spirit of love; that vitalizes fatherhood and brotherhood; that restores the lost to the living more impressively and beautifully than that of Abraham Lincoln's catching and holding in his arms the unconscious form of that boy as the jury's verdict, "Not Guilty," restores him to his widowed mother. Integrity, honesty, intelligence, knowledge of human nature, yes! But best of all, Lincoln's heart!

Few men, as the decades come and go, will have any claim to such a place in history. But many there are in every village, town and hamlet who will call him blessed who works for the happiness of generations unborn and for the comfort, opportunity and welfare of widows and orphans. In this month of hearts and flowers, remember that life insurance is human love made immortal.
